[From the Washington Post, Jan. 29, 1970]

UNDAUNTED SCHOOLS LOBBY TO PUSH VIEWS ON HEW BILL

(By David R. Boldt)

The Emergency Committee for Full Funding, the education lobby that had become a legend in its own time, sampled its first taste of defeat with reasonable good grace yesterday.

After the House had failed by 52 votes to override President Nixon's veto of the Labor-HEW appropriations bill, the lobby's executive secretary, Charles W. Lee, was putting on a cheerful front.

Sitting in his office on the third floor of the Congressional Hotel, he told a reporter, "There won't be any 'losing locker room scenes' here."

The committee, formed nine months ago, had run up three straight victories in key votes on education money bills before it came a cropper yesterday.

They did it by sending legions of teachers, school administrators, school board members, nuns, college students and others from office to office cajoling, arguing, and bullying legislators into seeing things their way.

The effort to override the veto was the biggest push so far, with about 600 people wearing the yellow "Save Education & Library Funds" crowding elevators, blocking hallways and taking up office chair space.

Lee said the defeat had "charged up" his forces and vowed they'd be out with a vengeance to fight for increasing the appropriations bill Congress will have to substitute for the one the President vetoed.

One Midwestern School administrator had told him to "just call collect" and he'd be on the next plane, Lee said, adding he thought that characterized the morale on his team.

"They're also going to be taking back what happened here. The guys (Congressmen) who voted with us are going to have no problem," Lee said. The others better have a "good reason" when the election campaign starts next fall, he added.

Outside Lee's door a woman in a blue dress was reading off the vote to a woman in a brown dress. The woman in brown, in turn, was noting, by state who was "with us" and who was not.

"Henderson (Rep. David N. Henderson of North Carolina) was with us," noted the woman in blue, "and we got all three Joneses." The balloting of the Joneses, the woman in brown confirmed, had been a high point.

The lobbying methods of the committee won the disapproval of at least Rep. William H. Ayres (R-Ohio), who read into the CONGRESSIONAL RECORD the committee's instructions to participants in this week's "Operation Override."

Ayres was particularly nettled by "No. 10," which reminds lobbyists to tell each Congressman "that you plan to be in the gallery throughout the debate and the voting on the veto override."

"In other words," Ayres told the House, "Big Brother will be watching." He called the lobbying effort "a disgrace to the good name of education."

There was no sign of any intimidation among the committee's Michigan adherents who had gathered after the vote in the Filibuster Room of the Congressional for a drink before leaving for the airport.

"This wasn't a one-shot deal," said Mrs. E. C. Farmer of Muskegon, director of the Michigan Association of School Boards. "This was just the beginning."

"We forced the other side to be honest," said Richard E. Pretzlaff, an administrator from Farmington, Mich. "The bill substituted for the vetoed one will be better because of what we did," he added.

But Lyle Layer, administrator from Oscoda, Mich., admitted he was disappointed. Wurtsmith Air Force Base sends its kids to his school and the loss of the impact aid for areas such as his was going to hurt, he said.

[From the Washington Star, Jan. 29, 1970]

THERE COULD BE FUTURE VETOES OF THE SAME BILL

Charles Lee, who headed a massive lobbying effort on behalf of scores of education organizations backing the extra funds, said the fight will not be abandoned.

"There could be future vetoes of the same bill," he said.

And in Buffalo, N.Y., George D. Fischer, president of the National Education Association, the nation's largest teachers' group, says, "We want to beat 5 or 10 congressmen who switched their vote on the HEW veto.

"We will use them as an example. We will put the fear of God in politicians all over the country," he told a teachers' meeting yesterday.

SENATE—*Friday, January 30, 1970*

The Senate met at 12 o'clock meridian and was called to order by Hon. ERNEST F. HOLLINGS, a Senator from the State of South Carolina.

The Reverend J. Hodge Alves, D.D., rector, the Falls Church Episcopal Church, Falls Church, Va., offered the following prayer:

O God, loving and holy Father, who has made all men and all things, we gladly acknowledge our dependence upon You. Help us to open our spiritual eyes and ears humbly to be guided of Thy Holy Spirit.

We thank You for this good land in which we live; for all its concerns for persons; and for all its freedoms. Make us wise and loyal enough to preserve them. Make us humble and loving enough to share them everywhere. Bless and guide our Nation, each of us, and especially these strong sons of this Nation who have been chosen to serve and to lead before You in this Senate. Make them conscious of the awesome responsibility and glorious opportunity that is theirs. Guide them in this work today; and grant that they may always listen to others and to You. Give them strength to do the right as You lead them to know the right without fear or favor. May they lead our Nation into ways of peace, good will, and right dealing with all mankind.

All this we ask in the name of Him who came to serve all men. Jesus Christ our Lord. Amen.

DESIGNATION OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will read a communication to the Senate.

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., January 30, 1970.

To the Senate:

Being temporarily absent from the Senate, I appoint Hon. ERNEST F. HOLLINGS, a Senator from the State of South Carolina, to perform the duties of the Chair during my absence.

RICHARD B. RUSSELL,
President pro tempore.

Mr. HOLLINGS thereupon took the chair as Acting President pro tempore.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States, submitting a nomination, was communicated to the Senate by Mr. Leonard, one of his secretaries.

EXECUTIVE MESSAGE REFERRED

As in executive session, the Acting President pro tempore laid before the Senate a message from the President of the United States submitting a nomination, which was referred to the Committee on Armed Services.

(For the nomination received today, see the end of Senate proceedings.)

MESSAGE FROM THE HOUSE

A message from the House of Representatives by Mr. Bartlett, one of its reading clerks, announced that the House had passed a bill (H.R. 14864) to amend the Internal Security Act of 1950 to authorize the Federal Government to institute measures for the protection of defense production and of classified information released to industry against acts of subversion, and for other purposes, in which it requested the concurrence of the Senate.

HOUSE BILL REFERRED

The bill (H.R. 14864) to amend the Internal Security Act of 1950 to authorize the Federal Government to institute measures for the protection of defense production and of classified information released to industry against acts of subversion, and for other purposes, was read twice by its title and referred to the Committee on the Judiciary.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Thursday, January 29, 1970, be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

LIMITATION ON STATEMENTS DURING TRANSACTION OF ROUTINE MORNING BUSINESS

Mr. MANSFIELD. Mr. President, I ask unanimous consent that statements in relation to the transaction of routine morning business be limited to 3 minutes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

COMMITTEE MEETINGS DURING SENATE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that all committees

be authorized to meet during the session of the Senate today.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

NEW DEFENSE BUDGET

Mr. MANSFIELD. Mr. President, I would like to call to the attention of the minority leader, and to the senior Senator from Delaware (Mr. WILLIAMS), a statement I am about to make concerning an article on next year's budget, published in the Washington Post this morning.

This article concerns the budget which the President intends to send to Congress next week, in which the following statement appears:

> Defense spending in fiscal 1971 will drop $5.8 billion to $73.6 billion.

Mr. President, it should be pointed out that that statement, in my judgment, is subject to correction. First of all, it implies that defense spending in fiscal 1970, this fiscal year, reached $80 billion. That is incorrect.

It should be noted that, in round figures, President Nixon himself requested defense funds for fiscal 1970 of $75.3 billion and that Congress approved an appropriation of only $69.64 billion, an overall reduction by Congress of $5.6 billion.

Even if we add to the $69.6 billion for defense, which is what this Congress allowed, the $1.56 billion for military construction, which this Congress allowed, and $350 million for military assistance out of foreign aid, which this Congress allowed, the total will then come to only $71.6 billion.

So the total appropriations for fiscal 1970—with all of these additional items included—are $2 billion less than what the Washington Post says President Nixon will ask for in 1971. Thus, if my figures are correct, the Nixon request is up by $2 billion.

And even if we added in the total appropriation for the AEC—$2.2 billion—and really not all of this should be in that category—the proposed total defense spending by President Nixon would reflect virtually no cut—I repeat—no cut in defense spending for the next fiscal year.

Mr. SCOTT. Mr. President, I shall be making a statement on this matter later, but this reference to a $5.6 billion saving by Congress, as I recall it, includes something over $1 billion of future spending which was canceled out in one of the appropriation bills and, really, should not be counted. I think it is about one and a quarter billion dollars.

But I do respectfully submit that, difficult as it is, cuts are being made in the budget. This reportedly is one of the tightest budgets ever submitted to Congress. Proof of that is in the sparks which will undoubtedly fly within the Cabinet membership—and I do not mean that any Cabinet member would be anything but totally loyal—but I would assume that they are undoubtedly aggrieved considerably they cannot carry on all the programs which their agencies would desire to carry on for the public good in order to hold down, very tightly, this oncoming budget.

I imagine, too, when we get into criticism of whether the President is making sufficient savings, that we will be hearing on this floor, and on the floor of the other body, from a very large number of concerned Members of Congress who will say, indeed—and this, of course, does not include the distinguished majority leader or the minority leader because I am sure that we are both above any political suspicion—but there will, of course, be voices heard to the effect that the President should continue cutting and cutting and cutting. They will be saying that to him again and again and again. Then the same Members of Congress in both the House and Senate will be pleading for increases in appropriations, one after the other, busting the budget daily, and doing it ever so merrily, with an absence of that consistency which has marked political life since political life became consistent with humanity.

I suppose we should recognize, right at the beginning of this session, that our concern for a balanced budget will often be offset by our concern for our constituencies, or our understandable desire to return to the happy privileges and prerogatives of life as public officials serving under the franchise of the electorate.

Mr. MANSFIELD. I appreciate the remarks made by the distinguished minority leader, but may I say that consistency is not always a jewel. Neither, by the same token, is inconsistency.

Mr. SCOTT. Yes, if the Senator would agree with what we say in Congress, that consistency is not a jewel but, rather, a semiprecious stone.

Mr. MANSFIELD. I thought the Senator was going to say it was the hobgoblin——

Mr. SCOTT. I am not quoting Emerson today. I am misquoting him.

Mr. MANSFIELD. I would say, after all, that Congress should stand up on its own hind legs and take credit for what it did in the way of cutting appropriations.

The facts speak for themselves. For fiscal year 1970, the reduction in the defense budget was $5.604 billion. And as for the advance funds already considered for the fiscal year 1971, there will be a further reduction of $1.437 billion based on the action of this Congress with the cooperation of both parties. Let me reiterate: This reduction for 1971 funding has already been made by the Congress.

I raise these questions ahead of time so that if what I have said is incorrect, it can be corrected so that we will all be aware of what the situation is and avoid if possible any sort of political hassle of this sort which is of transcendent importance.

Mr. WILLIAMS of Delaware. Mr. President, will the Senator yield?

Mr. MANSFIELD. I yield.

Mr. WILLIAMS of Delaware. Mr. President, I have not had access to the budget figures. I understand they will not be released officially until this Monday. Therefore, I cannot really comment on the accuracy of the pipeline information which the Washington Post may or may not have or how much of their news article is speculation.

I will say that the figures, of course, speak for themselves. And I agree with the majority leader that we should state them as they are, whether favorable or unfavorable to this administration or the preceding administration.

I will mention, however, that there is one explanation for some of the inconsistency. Appropriations figures can be compared only with appropriations and should be. Then we have the item of expenditures, and very often the expenditures can differ substantially from the amount actually appropriated by Congress, because of the amount in the pipeline from the year heretofore.

It could be possible that in some instances the Washington Post was comparing an expenditure item in one instance, whereas it used the amount appropriated in another. I do not know. But to get a true picture we should compare expenditures with expenditures and appropriations with appropriations, and they should be laid on the record factually and let the figures speak for themselves, whether they are uncomplimentary or complimentary to this or the preceding administration.

Once the budget has been submitted, I and others will be commenting on it. I assure the majority leader that as far as I am concerned I hope we can keep the figures on a straight basis. Whether we differ with the amount of authorization and expenditures is one point. But we should at least be able to agree on what the figures represent. They cannot be changed.

Mr. MANSFIELD. Mr. President, I agree with the Senator, who is a financial watchdog of the Senate and has been during all of the years of his service. He is a man of fiscal integrity and integrity in all other senses.

The Senator knows what financial responsibility means. The headlines in the Washington Post may or may not be correct. In any case, they need more specificity in labeling what moneys they are comparing. We will have to wait until the official budget comes down this next Monday.

Hopefully, what we have said this morning will be helpful to the administration.

EXECUTIVE COMMUNICATIONS, ETC.

The ACTING PRESIDENT pro tempore laid before the Senate the following letters, which were referred as indicated:

REPORT ON PLANNED ACTIONS IN THE NASA FISCAL YEAR 1970 PROGRAM

A letter from the Administrator, National Aeronautics and Space Administration, transmitting, pursuant to law, a report indicating proposed actions by NASA to conduct certain programs at levels in excess of those authorized in the National Aeronautics and Space Administration Authorization Act, 1970 (83 Stat. 196), together with the facts and circumstances related to those actions (with an accompanying report); to the Committee on Aeronautical and Space Sciences.

REPORT ON EXEMPLARY REHABILITATION CERTIFICATES

A letter from the Secretary of Labor, reporting, pursuant to law, on the Exemplary Rehabilitation Certificates for the calendar

year 1969; to the Committee on Armed Service.

REPORT ON SEMIANNUAL EXPERIMENTAL, DEVELOPMENT, TEST, AND RESEARCH PROCUREMENT ACTION

A letter from the Secretary of the Air Force, transmitting, pursuant to law, the Air Force report entitled "Semiannual Experimental, Development, Test and Research Procurement Action Report," July 1, 1969 through December 31, 1969 (with an accompanying Report); to the Committee on Armed Services.

GAS SUPPLIES OF INTERSTATE NATURAL GAS PIPELINE COMPANIES, 1968

A letter from the Chairman, Federal Power Commission, transmitting for the information of the Senate, a copy of a publication entitled "Gas Supplies of Interstate Natural Gas Pipeline Companies, 1968" (with an accompanying document); to the Committee on Commerce.

REPORT ON FINAL VALUATIONS OF PROPERTIES OF CARRIERS

A letter from the Chairman, Interstate Commerce Commission, transmitting, pursuant to law, a report on final valuations of properties of certain carriers (with an accompanying report); to the Committee on Commerce.

REPORT CONCERNING THE USE OF FUNDS BY THE MARITIME ADMINISTRATION FOR CONSTRUCTION, EQUIPPING AND FURNISHING A LIBRARY BUILDING AT THE U.S. MERCHANT MARINE ACADEMY, KINGS POINT, N.Y.

A letter from the Secretary of Commerce, reporting in response to a report from the Comptroller General dated November 14, 1969 (B-118779), concerning the use of funds by the Maritime Administration for construction, equipping and furnishing a library building at the U.S. Merchant Marine Academy, Kings Point, N.Y. (with an accompanying report); to the Committee on Government Operations.

REPORT CONCERNING ACTIVITIES CARRIED ON BY THE GEOLOGICAL SURVEY

A letter from the Assistant Secretary of the Interior, reporting, pursuant to law, on activities carried on by the Geological Survey during the reporting period July 1 through December 31, 1969; to the Committee on Interior and Insular Affairs.

REPORT OF VIEWS CONCERNING FINAL REPORT OF THE NATIONAL WATER COMMISSION

A letter from the Chairman, Water Resources Council, reporting, pursuant to law, the views of the council on the National Water Commission's Annual Report for 1969; to the Committee on Interior and Insular Affairs.

REPORT OF THE ATOMIC ENERGY COMMISSION

A letter from the Atomic Energy Commission, transmitting, pursuant to law, the annual report for 1969 of the U.S. Atomic Energy Commission (with an accompanying report); to the Joint Committee on Atomic Energy.

REPORT PERTAINING TO FAIR LABOR STANDARDS IN EMPLOYMENTS IN AND AFFECTING INTERSTATE COMMERCE

A letter from the Secretary of Labor, transmitting, pursuant to law, the January 1970 report pertaining to fair labor standards in employments in and affecting interstate commerce (with an accompanying report); to the Committee on Labor and Public Welfare.

REPORT PERTAINING TO ACTIVITIES IN CONNECTION WITH AGE DISCRIMINATION IN EMPLOYMENT ACT OF 1967

A letter from the Secretary of Labor, transmitting, pursuant to law, a report pertaining to activities in connection with Age Discrimination in Employment Act of 1967, for January, 1970 (with an accompanying report); to the Committee on Labor and Public Welfare.

REPORT OF LOSSES OR COSTS INCURRED BY THE POSTAL SERVICE IN THE PERFORMANCE OF PUBLIC SERVICES DURING THE CURRENT FISCAL YEAR

A letter from the Postmaster General, reporting, pursuant to law, the estimated amount of the losses or costs (or percentage of costs) incurred by the postal service in the performance of public services during the current fiscal year; to the Committee on Post Office and Civil Service.

REPORT OF THE COMPTROLLER GENERAL

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report on positions in grades GS-16, GS-17, GS-18, for the calendar year 1969 (with an accompanying report); to the Committee on Post Office and Civil Service.

PROPOSED LEGISLATION CORRECTING CERTAIN PROVISIONS OF LAW RELATING TO THE POSTAL SERVICE

A letter from the Postmaster General, transmitting a draft of proposed legislation to make technical corrections in certain provisions of laws relating to the postal service (with accompanying papers); to the Committee on Post Office and Civil Service.

PROPOSED LEGISLATION TO PERMIT THE ACCEPTANCE OF CHECKS AND NONPOSTAL MONEY ORDERS IN PAYMENT FOR POSTAL CHARGES AND SERVICES

A letter from the Postmaster General, transmitting a draft of proposed legislation to permit the acceptance of checks and nonpostal money orders in payment for postal charges and services; authorize the Postmaster General to relieve postmasters and accountable officers for losses incurred by postal personnel when accepting checks or nonpostal money orders in full compliance with postal regulations; and provide penalties for presenting bad checks and bad nonpostal money orders in payment for postal charges and services (with accompanying papers); to the Committee on Post Office and Civil Service.

REPORT OF THE FOUR CORNER REGIONAL COMMISSION

A letter from the Federal Cochairman, transmitting, pursuant to law, an interim report of the Four Corners Regional Commission, U.S. Department of Commerce (with an accompanying report); to the Committee on Public Works.

PETITION

The ACTING PRESIDENT pro tempore laid before the Senate a resolution adopted by the Wayne County, Mich., Board of Supervisors, in tribute to the memory of the late Dr. Martin Luther King, Jr., praying for the declaration of the 15th day of January as a national holiday in memory of Dr. King; which was referred to the Committee on the Judiciary.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. BYRD of Virginia, from the Committee on the Judiciary, without amendment:

S. 2707. A bill to consent to the Interstate Compact on Air Pollution between the States of Ohio and West Virginia (Rept. No. 91-645).

By Mr. HRUSKA, from the Committee on the Judiciary, without amendment:

H.J. Res. 888. Joint resolution to authorize the President to designate the period beginning February 13, 1970, and ending February 19, 1970, as "Mineral Industry Week" (Rept. No. 91-646); and

H.J. Res. 1051. Joint resolution designating the week commencing February 1, 1970, as International Clergy Week in the United States, and for other purposes (Rept. No. 91-647).

By Mr. JORDAN of North Carolina, from the Committee on Rules and Administration, without amendment:

S. Res. 297. Resolution authorizing the printing of additional copies of 19th annual report of the activities of the Joint Committee on Defense Production (Rept. No. 91-648); and

S. Res. 315. Resolution authorizing additional expenditures for Committee on Appropriations.

SENATE RESOLUTION 333—AUTHORIZING ADDITIONAL EXPENDITURES BY THE COMMITTEE ON THE JUDICIARY FOR A STUDY OF ADMINISTRATIVE PRACTICE AND PROCEDURE—REPORT OF A COMMITTEE

Mr. EASTLAND, from the Committee on the Judiciary, reported the following original resolution (S. Res. 333); which was referred to the Committee on Rules and Administration:

S. RES. 333

Resolved, That the Committee on the Judiciary, or any duly authorized subcommittee thereof, is authorized under sections 134(a) and 136 of the Legislative Reorganization Act of 1946, as amended, and in accordance with its jurisdictions specified by rule XXV of the Standing Rules of the Senate, to make a full and complete study and investigation of administrative practices and procedures within the departments and agencies of the United States in the exercise of their rulemaking, licensing, investigatory, law enforcement, and adjudicatory functions, including a study of the effectiveness of the Administrative Procedure Act and the study of the recommendations of the Administrative Conference of the United States, with a view to determining whether additional legislation is required to provide for the fair, impartial, and effective performance of such functions.

SEC. 2. For the purpose of this resolution the committee, from February 1, 1970, to January 31, 1971, inclusive is authorized (1) to make such expenditures as it deems advisable; (2) to employ upon a temporary basis technical, clerical, and other assistants and consultants: *Provided*, That the minority is authorized to select one person for appointment, and the person so selected shall be appointed and his compensation shall be so fixed that his gross rate shall not be less by more than $2,700 than the highest gross rate paid to any other employee; and (3) with the prior consent of the heads of the departments or agencies concerned, and the Committee on Rules and Administration, to utilize the reimbursable services, information, facilities, and personnel of any of the departments or agencies of the Government.

SEC. 3. The committee shall report its findings, together with its recommendations for legislation as it deems advisable to the Senate at the earliest practicable date, but not later than January 31, 1971.

SEC. 4. Expenses of the committee under this resolution, which shall not exceed $246,000, shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee.

SENATE RESOLUTION 334—AUTHORIZING ADDITIONAL EXPENDITURES BY THE COMMITTEE ON THE JUDICIARY FOR AN INVESTIGATION OF ANTITRUST AND MONOPOLY LAWS—REPORT OF A COMMITTEE

Mr. EASTLAND, from the Committee on the Judiciary, reported the following original resolution (S. Res. 334); which was referred to the Committee on Rules and Administration:

S. Res. 334

Resolved, That the Committee on the Judiciary, or any duly authorized subcommittee thereof, is authorized under sections 134(a) and 136 of the Legislative Reorganization Act of 1946, as amended, and in accordance with its jurisdictions specified by rule XXV of the Standing Rules of the Senate, to make a complete, comprehensive, and continuing study and investigation of unlawful restraints and monopolies, and of the antitrust and monopoly laws of the United States, their administration, interpretation, operation, enforcement, and effect, and to determine and from time to time redetermine the nature and extent of any legislation which may be necessary or desirable for—

(1) clarification of existing law to eliminate conflicts and uncertainties where necessary;

(2) improvement of the administration and enforcement of existing laws; and

(3) supplementation of existing law to provide any additional substantive, procedural, or organizational legislation which may be needed for the attainment of the fundamental objects of the laws and the efficient administration and enforcement thereof.

Sec. 2. For the purposes of this resolution the committee, from February 1, 1970 to January 31, 1971, inclusive, is authorized (1) to make such expenditures as it deems advisable; (2) to employ upon a temporary basis, technical, clerical, and other assistants and consultants: *Provided,* That the minority is authorized to select one person for appointment, and the person so selected shall be appointed and his compensation shall be so fixed that his gross rate shall not be less by more than $2,700 than the highest gross rate paid to any other employee; and (3) with the prior consent of the heads of the departments or agencies concerned, and the Committee on Rules and Administration, to utilize the reimbursable services, information, facilities, and personnel of any of the departments or agencies of the Government.

Sec. 3. The committee shall report its findings, together with its recommendations for legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than January 31, 1971.

Sec. 4. Expenses of the committee, under this resolution, which shall not exceed $643,500, shall be paid from the contingent fund for the Senate upon vouchers approved by the chairman of the committee.

SENATE RESOLUTION 335—AUTHORIZING ADDITIONAL EXPENDITURES BY THE COMMITTEE ON THE JUDICIARY FOR A STUDY OF MATTERS PERTAINING TO CONSTITUTIONAL AMENDMENTS—REPORT OF A COMMITTEE

Mr. EASTLAND, from the Committee on the Judiciary, reported the following original resolution (S. Res. 335); which was referred to the Committee on Rules and Administration:

S. Res 335

Resolved, That the Committee on the Judiciary or any duly authorized subcommittee thereof, is authorized under sections 134(a) and 136 of the Legislative Reorganization Act of 1946, as amended, and in accordance with its jurisdictions specified by rule XXV of the Standing Rules of the Senate, to examine, investigate, and make a complete study of any and all matters pertaining to constitutional amendments.

Sec. 2. For the purposes of this resolution the committee, from February 1, 1970, to January 31, 1971, inclusive, is authorized (1) to make such expenditures as it deems advisable; (2) to employ, upon a temporary basis, technical, clerical, and other assistants and consultants: *Provided,* That the minority is authorized to select one person for appointment, and the person so selected shall be appointed and his compensation shall be so fixed that his gross rate shall not be less by more than $2,700 than the highest gross rate paid to any other employee; and (3) with the prior consent of the heads of the departments or agencies concerned, and the Committee on Rules and Administration, to utilize the reimbursable services, information, facilities, and personnel of any of the departments or agencies of the Government.

Sec. 3. The committee shall report its activities and findings, together with its recommendations for legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than January 31, 1971.

Sec. 4. Expenses of the committee under this resolution, which shall not exceed $173,300 shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee.

SENATE RESOLUTION 336—AUTHORIZING ADDITIONAL EXPENDITURES BY THE COMMITTEE ON THE JUDICIARY FOR A STUDY OF MATTERS PERTAINING TO CONSTITUTIONAL RIGHTS—REPORT OF A COMMITTEE

Mr. EASTLAND, from the Committee on the Judiciary, reported the following original resolution (S. Res. 336); which was referred to the Committee on Rules and Administration:

S. Res. 336

Resolved, That the Committee on the Judiciary, or any duly authorized subcommittee thereof, is authorized under sections 134(a) and 136 of the Legislative Reorganization Act of 1946, as amended, and in accordance with its jurisdictions specified by rule XXV of the Standing Rules of the Senate, to examine, investigate, and make a complete study of any and all matters pertaining to constitutional rights.

Sec. 2. For the purposes of this resolution the committee, from February 1, 1970, to January 31, 1971, inclusive, is authorized (1) to make such expenditures as it deems advisable; (2) to employ, upon a temporary basis, technical, clerical, and other assistants and consultants: *Provided,* That the minority is authorized to select one person for appointment, and the person so selected shall be appointed and his compensation shall be so fixed that his gross rate shall not be less by more than $2,700 than the highest gross rate paid to any other employee; and (3) with the prior consent of the heads of the departments or agencies concerned, and the Committee on Rules and Administration, to utilize the reimbursable services, information, facilities, and personnel of any of the departments or agencies of the Government.

Sec. 3. The committee shall report its findings, together with its recommendations for legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than January 31, 1971.

Sec. 4. Expenses of the Committee, under this resolution, which shall not exceed $230,000, shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee.

SENATE RESOLUTION 337—AUTHORIZING ADDITIONAL EXPENDITURES BY THE COMMITTEE ON THE JUDICIARY FOR AN INVESTIGATION OF CRIMINAL LAWS AND PROCEDURES—REPORT OF A COMMITTEE

Mr. EASTLAND, from the Committee on the Judiciary, reported the following original resolution (S. Res. 337); which was referred to the Committee on Rules and Administration:

S. Res. 337

Resolved, That the Committee on the Judiciary, or any duly authorized subcommittee thereof, is authorized under sections 134(a) and 136 of the Legislative Reorganization Act of 1946, as amended, and in accordance with its jurisdictions specified by rule XXV of the Standing Rules of the Senate, to examine, investigate, and make a complete study of criminal laws and procedures.

Sec. 2. For the purpose of this resolution the committee, from February 1, 1970, to January 31, 1971, inclusive, is authorized (1) to make such expenditures as it deems advisable; (2) to employ on a temporary basis technical, clerical, and other assistants and consultants: *Provided,* That the minority is authorized to select one person for appointment, and the person so selected shall be appointed and his compensation shall be so fixed that his gross rate shall not be less by more than $2,700 than the highest gross rate paid to any other employee; and (3) with the prior consent of the heads of the department or agency concerned and the Committee on Rules and Administration, to utilize the reimbursable services, information, facilities, and personnel of any of the departments or agencies of the Government.

Sec. 3. The committee shall report its findings, together with its recommendations for such legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than January 31, 1971.

Sec. 4. The expenses of the committee under this resolution, which shall not exceed $152,000, shall be paid from the contingent fund of the Senate by vouchers approved by the chairman of the committee.

SENATE RESOLUTION 338—AUTHORIZING ADDITIONAL EXPENDITURES BY THE COMMITTEE ON THE JUDICIARY FOR THE CONSIDERATION OF MATTERS PERTAINING TO FEDERAL CHARTERS, HOLIDAYS, AND CELEBRATIONS—REPORT OF A COMMITTEE

Mr. EASTLAND, from the Committee on the Judiciary, reported the following original resolution (S. Res. 338); which was referred to the Committee on Rules and Administration:

S. Res. 338

Resolved, That the Committee on the Judiciary, or any duly authorized subcommittee thereof, is authorized under sections 134 (a) and 136 of the Legislative Reorganization Act of 1946, as amended, and in accordance with its jurisdictions specified by rule XXV of the Standing Rules of the Senate to consider all matters pertaining to Federal charters, holidays, and celebrations.

Sec. 2. For the purposes of this resolution, the committee, from February 1, 1970, to January 31, 1971, inclusive, is authorized to (1) make such expenditures as it deems advisable; (2) to employ, upon a temporary basis, technical, clerical, and other assistants

and consultants; and (3) with the prior consent of the heads of the departments or agencies concerned and the Committee on Rules and Administration, to utilize the reimbursable services, information, facilities, and personnel of any of the departments or agencies of the Government.

SEC. 3. Expenses of the committee, under this resolution, which shall not exceed $9,500, shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee.

SENATE RESOLUTION 339—AUTHORIZING ADDITIONAL EXPENDITURES BY THE COMMITTEE ON THE JUDICIARY FOR A STUDY OF MATTERS PERTAINING TO IMMIGRATION AND NATURALIZATION—REPORT OF A COMMITTEE

Mr. EASTLAND, from the Committee on the Judiciary, reported the following original resolution (S. Res. 339); which was referred to the Committee on Rules and Administration:

S. RES. 339

Resolved, That the Committee on the Judiciary, or any duly authorized subcommittee thereof, is authorized under sections 134 (a) and 136 of the Legislative Reorganization Act of 1946, as amended, and in accordance with its jurisdictions specified by rule XXV of the Standing Rules of the Senate to examine, investigate, and make a complete study of any and all matters pertaining to immigration and naturalization.

SEC. 2. For the purposes of this resolution, the committee, from February 1, 1970, to January 31, 1971, inclusive, is authorized (1) to make such expenditures as it deems advisable; (2) to employ upon a temporary basis, technical, clerical, and other assistants and consultants: *Provided,* That the minority is authorized to select one person for appointment, and the person so selected shall be appointed and his compensation shall be so fixed that his gross rate shall not be less by more than $2,700 than the highest gross rate paid to any other employee; and (3) with the prior consent of the heads of the departments or agencies concerned, and the Committee on Rules and Administration, to utilize the reimbursable services, information, facilities, and personnel of any of the departments or agencies of the Government.

SEC. 3. The committee shall report its findings, together with its recommendations for legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than January 31, 1971.

SEC. 4. Expenses of the committee, under this resolution, which shall not exceed $213,-500, shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee.

SENATE RESOLUTION 340—AUTHORIZING ADDITIONAL EXPENDITURES BY THE COMMITTEE ON THE JUDICIARY FOR A STUDY AND EXAMINATION OF THE FEDERAL JUDICIAL SYSTEM—REPORT OF A COMMITTEE

Mr. EASTLAND, from the Committee on the Judiciary, reported the following original resolution (S. Res. 340); which was referred to the Committee on Rules and Administration:

S. RES. 340

Resolved, That the Committee on the Judiciary, or any duly authorized subcommittee thereof, is authorized under section 134(a) and 136 of the Legislative Reorganization Act of 1946, as amended, and in accordance with its jurisdiction specified by rule XXV of the Standing Rules of the Senate, to conduct a study and examination of the administration, practice, and procedures of the Federal judicial system with a view to determining the legislation, if any, which may be necessary or desirable in order to improve the operations of the Federal courts in the just and expeditious adjudication of the cases, controversies, and other matters which may be brought before them.

SEC. 2. For the purpose of this resolution, the committee, from February 1, 1970 to January 31, 1971, inclusive, is authorized (1) to make such expenditures as it deems advisable; (2) to employ upon a temporary basis professional, technical, clerical, and other assistants and consultants: *Provided,* That the minority is authorized to select one person for appointment, and the person so selected shall be appointed and his compensation shall be so fixed that his gross rate shall not be less by more than $2,700 than the highest gross rate paid to any other employee; and (3) with the prior consent of the heads of departments and agencies concerned, and the Committee on Rules and Administration, to utilize the reimbursable services, information, facilities, and personnel of any of the departments or agencies of the Government.

SEC. 3. The committee shall report its findings, together with its recommendations for legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than January 31, 1971.

SEC. 4. Expenses of the committee under this resolution, which shall not exceed $220,-200, shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee.

SENATE RESOLUTION 341—AUTHORIZING ADDITIONAL EXPENDITURES BY THE COMMITTEE ON THE JUDICIARY FOR AN INVESTIGATION OF THE ADMINISTRATION, OPERATION AND ENFORCEMENT OF THE INTERNAL SECURITY ACT—REPORT OF A COMMITTEE

Mr. EASTLAND, from the Committee on the Judiciary, reported the following original resolution (S. Res. 341); which was referred to the Committee on Rules and Administration:

S. RES. 341

Resolved, That the Committee on the Judiciary, or any duly authorized subcommittee thereof, is authorized under sections 134(a) and 136 of the Legislative Reorganization Act of 1946, as amended, and in accordance with its jurisdiction specified by rule XXV of the Standing Rules of the Senate insofar as they relate to the authority of the committee, to make a complete and continuing study and investigation of (1) the administration, operation, and enforcement of the Internal Security Act of 1950, as amended; (2) the administration, operation, and enforcement of other laws relating to espionage, sabotage, and the protection of the internal security of the United States; and (3) the extent, nature, and effect of subversive activities in the United States, its territories and possessions, including, but not limited to, espionage, sabotage, and infiltration by persons who are or may be under the domination of the foreign government or organizations controlling the world Communist movement or any other movement seeking to overthrow the Government of the United States by force or violence.

SEC. 2. For the purposes of this resolution, the committee, from February 1, 1970, to January 31, 1971, inclusive, is authorized (1) to make such expenditures as it deems advisable; (2) to employ upon a temporary basis technical, clerical, and other assistants and consultants:

Provided, That the minority is authorized to select one person for appointment, and the person so selected shall be appointed and his compensation shall be fixed that his gross rate shall not be less by more than $2,700 than the highest gross rate paid to any other employee: and (3) with the prior consent of the heads of the departments or agencies concerned, and the Committee on Rules and Administration, to utilize the reimbursable services, information, facilities, and personnel of any of the departments or agencies of the Government.

SEC. 3. Expenses of the committee, under this resolution, which shall not exceed $555,-000, shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee.

SENATE RESOLUTION 342—AUTHORIZING ADDITIONAL EXPENDITURES BY THE COMMITTEE ON THE JUDICIARY FOR AN INVESTIGATION OF JUVENILE DELINQUENCY—REPORT OF A COMMITTEE

Mr. EASTLAND, from the Committee on the Judiciary, reported the following original resolution (S. Res. 342); which was referred to the Committee on Rules and Administration:

S. RES. 342

Resolved, That the Committee on the Judiciary, or any duly authorized subcommittee thereof, is authorized under sections 134(a) and 136 of the Legislative Reorganization Act of 1946, as amended, and in accordance with its jurisdictions specified by rule XXV of the Standing Rules of the Senate, to examine, investigate, and make a complete study of any and all matters pertaining to juvenile delinquency in the United States, including (a) the extent and character of juvenile delinquency in the United States and its causes and contributing factors; (b) the adequacy of existing provisions of law, including chapters 402 and 403 of title 18 of the United States Code, in dealing with youthful offenders of Federal laws; (c) sentences imposed on, or other correctional action taken with respect to, youthful offenders by Federal courts, and (d) the extent to which juveniles are violating Federals laws relating to the sale or use of narcotics.

SEC. 2. For the purposes of this resolution, the committee, from February 1, 1970, to January 31, 1971, inclusive, is authorized (1) to make such expenditures as it deems advisable; (2) to employ, upon a temporary basis, technical, clerical, and other assistants and consultants: *Provided,* That the minority is authorized to select one person for appointment, and the person so selected shall be appointed and his compensation shall be so fixed that his gross rate shall not be less by more than $2,700 than the highest gross rate paid to any other employee; and (3) with the prior consent of the heads of the departments or agencies concerned, and the Committee on Rules and Administration, to utilize the reimbursable services, information, facilities, and personnel of any of the departments or agencies of the Government.

SEC. 3. The committee shall report its findings, together with its recommendations for legislation, as it deems advisable, to the Senate at the earliest practicable date, but not later than January 31, 1971.

SEC. 4. Expenses of the committee, under this resolution, which shall not exceed $257,500 shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee.

SENATE RESOLUTION 343—AUTHORIZING ADDITIONAL EXPENDITURES BY THE COMMITTEE ON THE JUDICIARY FOR AN EXAMINATION AND REVIEW OF THE STATUTES RELATING TO PATENTS, TRADEMARKS, AND COPYRIGHTS—REPORT OF A COMMITTEE

Mr. EASTLAND, from the Committee on the Judiciary, reported the following original resolution (S. Res. 343); which was referred to the Committee on Rules and Administration:

S. RES. 343

Resolved, That the Committee on the Judiciary, or any duly authorized subcommittee thereof, is authorized under sections 134(a) and 136 of the Legislative Reorganization Act of 1946, as amended, and in accordance with its jurisdiction specified by rule XXV of the Standing Rules of the Senate, to conduct a full and complete examinatiion and review of the statutes relating to patents, trademarks, and copyrights.

SEC. 2. For the purposes of this resolution the committee, from February 1, 1970 to January 31, 1971, inclusive, is authorized (1) to make such expenditures as it deems advisable; (2) to employ, upon a temporary basis, technical, clerical, and other assistants and consultants: *Provided,* That the minority is authorized to select one person for appointment, and the person so selected shall be appointed and his compensation shall be so fixed that his gross rate shall not be less by more than $2,700 than the highest gross rate paid to any other employee; and (3) with the prior consent of the heads of the departments or agencies concerned, and the Committee on Rules and Administration, to utilize the reimbursable services, information, facilities, and personnel of any of the department or agencies of the Government.

SEC. 3. The committee shall report its findings, together with its recommendations for legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than January 31, 1971.

SEC. 4. Expenses of the committee, under this resolution, which shall not exceed $132,000, shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the Committee.

SENATE RESOLUTION 344—AUTHORIZING ADDITIONAL EXPENDITURES BY THE COMMITTEE ON THE JUDICIARY FOR AN INVESTIGATION OF NATIONAL PENITENTIARIES—REPORT OF A COMMITTEE

Mr. EASTLAND, from the Committee on the Judiciary, reported the following original resolution (S. Res. 344); which was referred to the Committee on Rules and Administration:

S. RES. 344

Resolved, That the Committee on the Judiciary, or any duly authorized subcommittee thereof, is authorized under section 134 (a) and 136 on the Legislative Reorganization Act of 1946, as amended, and in accordance with its jurisdictions specified by rule XXV of the Standing Rules of the Senate, to examine, investigate, and inspect national penitentiaries.

SEC. 2. For the purposes of this resolution the committee, from February 1, 1970, to January 31, 1971, inclusive, is authorized (1) to make such expenditures as it deems advisable; (2) to employ, upon a temporary basis, technical, clerical, and other assistants and consultants; and (3) with the prior consent of the heads of the departments or agencies concerned, and the Committee on Rules and Administration, to utilize the reimbursable services, information, facilities, and personnel of any of the departments or agencies of the Government.

SEC. 3. The committee shall report its findings, together with its recommendations for legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than January 31, 1971.

SEC. 4. Expenses of the committee, under this resolution, which shall not exceed $35,000, shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee.

SENATE RESOLUTION 345—AUTHORIZING ADDITIONAL EXPENDITURES BY THE COMMITTEE ON THE JUDICIARY FOR A STUDY OF THE PROBLEMS CREATED BY THE FLOW OF REFUGEES AND ESCAPEES—REPORT OF A COMMITTEE

Mr. EASTLAND, from the Committee on the Judiciary, reported the following original resolution (S. Res. 345); which was referred to the Committee on Rules and Administration:

S. RES. 345

Resolved, That the Committee on the Judiciary, or any duly authorized subcommittee thereof, is authorized under sections 134(a) and 1936 of the Legislative Reorganization Act of 1946, as amended, and in accordance with its jurisdiction specified by rule XXV of the Standing Rules of the Senate, to examine, investigate, and make a complete study of any and all matters pertaining to the problems created by the flow of refugees and escapees.

SEC. 2. For the purposes of this resolution, the committee, from February 1, 1970 to January 31, 1971, inclusive, is authorized (1) to make such expenditures as it deems advisable; (2) to employ, on a temporary basis, technical, clerical, and other assistants and consultants: *Provided,* That the minority is authorized to select one person for appointment, and the person so selected shall be appointed and his compensation shall be so fixed that his gross rate shall not be less by more than $2,700 than the highest gross rate paid to any other employee; and (3) with the prior consent of the heads of the department or agency concerned and the Committee on Rules and Administration, to utilize the reimbursable services, information, facilities, and personnel of any of the departments or agencies of the Government.

SEC. 3. The committee shall report its findings, together with its recommendations for such legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than January 31, 1971.

SEC. 4. The expenses of the committee under this resolution, which shall not exceed $128,900, shall be paid from the contingent fund of the Senate by vouchers approved by the chairman of the committee.

SENATE RESOLUTION 346—AUTHORIZING ADDITIONAL EXPENDITURES BY THE COMMITTEE ON THE JUDICIARY FOR A STUDY OF MATTERS PERTAINING TO REVISION AND CODIFICATION OF THE STATUTES OF THE UNITED STATES—REPORT OF A COMMITTEE

Mr. EASTLAND, from the Committee on the Judiciary, reported the following original resolution (S. Res. 346), which was referred to the Committee on Rules and Administration:

S. RES. 346

Resolved, That the Committee on the Judiciary, or any duly authorized subcommittee thereof, is authorized under sections 134(a) and 136 of the Legislative Reorganization Act of 1946, as amended, and in accordance with its jurisdictions specified by rule XXV of the Standing Rules of the Senate, to examine, investigate, and make a complete study of any and all matters pertaining to revision and codification of the statutes of the United States.

SEC. 2. For the purpose of this resolution the committee from February 1, 1970, to January 31, 1971, inclusive, is authorized (1) to make such expenditures as it deems advisable; (2) to employ upon a temporary basis technical, clerical, and other assistants and consultants: *Provided,* That if more than one counsel is employed, the minority is authorized to select one person for appointment, and the person so selected shall be appointed and his compensation shall be so fixed that his gross rate shall not be less by more than $2,700 than the highest rate paid to any other employee; and (3) with the prior consent of the heads of the departments or agencies concerned, and the Committee on Rules and Administration, to utilize the reimbursable services, information, facilities, and personnel of any of the departments or agencies of the Government.

SEC. 3. The committee shall report its findings, together with its recommendations, to the Senate at the earliest practicable date, but not later than January 31, 1971.

SEC. 4. Expenses of the committee, under this resolution, which shall not exceed $55,800, shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee.

SENATE RESOLUTION 347—AUTHORIZING ADDITIONAL EXPENDITURES BY THE COMMITTEE ON THE JUDICIARY FOR A STUDY OF SEPARATION OF POWERS—REPORT OF A COMMITTEE

Mr. EASTLAND, from the Committee on the Judiciary, reported the following original resolution (S. Res. 347); which was referred to the Committee on Rules and Administration:

S. RES. 347

Resolved, That the Committee on the Judiciary, or any duly authorized subcommittee thereof, is authorized under sections 134(a) and 136 of the Legislative Reorganization Act of 1946, as amended, and in accordance with its jurisdictions specified by rule XXV of the Standing Rules of the Senate, to make a full and complete study of the separation of powers between the executive, judicial, and legislative branches of Government provided by the Constitution, the manner in which power has been exercised by each branch and the extent if any to which any branch or branches of the Government may have encroached upon the powers, functions, and duties vested in any other branch by the Constitution of the United States.

SEC. 2. For the purposes of this resolution the committee, from February 1, 1970, to January 31, 1971, inclusive, is authorized (1) to make such expenditures as it deems advisable; (2) to employ upon a temporary basis, technical, clerical, and other assistants and consultants: *Provided,* That the minority is authorized to select one person for appointment, and the person so selected shall be appointed and his compensation shall be so fixed that his gross rate shall not be less by more than $2,700 than the highest gross rate paid to any other employee; and (3) with the prior consent of the heads of the departments or agencies concerned, and the Committee on Rules and Administration, to utilize the reimbursable services, infor-

mation, facilities, and personnel of any of the departments or agencies of the Government.

SEC. 3. The committee shall report its findings to the Senate at the earliest practicable date, but not later than January 31, 1971.

SEC. 4. Expenses of the committee, under this resolution, which shall not exceed $130,000, shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee.

SENATE RESOLUTION 348—RESOLUTION TO PAY A GRATUITY TO LENA M. KETTLER—REPORT OF A COMMITTEE

Mr. JORDAN of North Carolina, from the Committee on Rules and Administration, reported the following original resolution (S. Res. 348), which was placed on the calendar, as follows:

S. RES. 348

Resolved, That the Secretary of the Senate hereby is authorized and directed to pay, from the contingent fund of the Senate, to Lena M. Kettler, widow of Edward L. Kettler, an employee of the Senate at the time of his death, a sum equal to one year's compensation at the rate he was receiving by law at the time of his death, said sum to be considered inclusive of funeral expenses and all other allowances.

SENATE CONCURRENT RESOLUTION 52—CONCURRENT RESOLUTION REPORTED AUTHORIZING THE PRINTING OF A COMPILATION OF HEARINGS, REPORTS, AND COMMITTEE PRINTS—REPORT OF A COMMITTEE

Mr. JACKSON, from the Committee on Government Operations, reported the following original concurrent resolution (S. Con. Res. 52); which was referred to the Committee on Rules and Administration:

S. CON. RES. 52

Resolved by the Senate (the House of Representatives concurring), That there be printed for the use of the Senate Committee on Government Operations three thousand copies of a compilation of the hearings, reports, and committee prints of its Subcommittee on National Security and International Operations entitled "Planning-Programming-Budgeting," issued during the Ninetieth Congress and the first session of the Ninety-first Congress.

SENATE CONCURRENT RESOLUTION 53—AUTHORIZING THE PRINTING OF THE NATIONAL ESTUARINE POLLUTION STUDY AS A SENATE DOCUMENT (REPT. NO. 91-649)

Mr. JORDAN of North Carolina, from the Committee on Rules and Administration, reported the following original resolution (S. Con. Res. 53), and submitted a report thereon, which was placed on the calendar, as follows:

S. CON. RES. 53

A concurrent resolution authorizing the printing of the National Estuarine Pollution Study as a Senate document

Resolved by the Senate (the House of Representatives concurring), That there be printed as a Senate document, in one volume, with illustrations, the National Estuarine Pollution Study, submitted to the Congress by the Federal Water Pollution Control Administration, Department of the Interior, in accordance with section 5(g)(3), Public Law 89-753, Clean Water Restoration Act of 1966, and that there be printed three thousand five hundred additional copies of such document, of which two thousand five hundred copies shall be for the use of the Senate Committee on Public Works and one thousand copies shall be for the use of the House Committee on Public Works.

BILLS INTRODUCED

Bills were introduced, read the first time and, by unanimous consent, the second time, and referred as follows:

By Mr. MOSS:

S. 3357. A bill to provide reemployment rights for certain Department of Defense personnel in the excepted service; to the Committee on Post Office and Civil Service.

(The remarks of Mr. Moss when he introduced the bill appear later in the RECORD under the appropriate heading.)

By Mr. HANSEN:

S. 3358. A bill to authorize the Secretary of the Interior to protect, manage, and control free-roaming horses and burros on public lands; to the Committee on Interior and Insular Affairs.

By Mr. YARBOROUGH:

S. 3359. A bill to amend title 38, United States Code, so as to provide that social security benefits shall be disregarded in determining eligibility for or the amount of dependency and indemnity compensation of dependent parents or in determining eligibility for or the amount of non-service-connected pension of veterans and widows of veterans; to the Committee on Finance.

(The remarks of Mr. YARBOROUGH when he introduced the bill appear later in the RECORD under the appropriate heading.)

By Mr. BAYH:

S. 3360. A bill to amend section 770 of title 38, United States Code, to provide for the payment of servicemen's group life insurance benefits directly to a minor widow or widower where State law prohibits payment of insurance to minors; to the Committee on Finance.

(The remarks of Mr. BAYH when he introduced the bill appear later in the RECORD under the appropriate heading.)

By Mr. HATFIELD:

S. 3361. A bill to create one additional permanent district judgeship in Oregon; to the Committee on the Judiciary.

(The remarks of Mr. HATFIELD when he introduced the bill appear later in the RECORD under the appropriate heading.)

S. 3357—INTRODUCTION OF A BILL PROVIDING REEMPLOYMENT RIGHTS FOR DEFENSE PERSONNEL

Mr. MOSS. Mr. President, I introduce for appropriate reference, a bill to give reemployment rights to certain civilian Defense Department employees who accept overseas assignments in excepted service.

The need for this bill was called to my attention by the experience of a constituent of mine who left a position of attorney-adviser at Hill Air Force Base in Ogden, Utah, to accept a similar position with the U.S. Air Force in England, and who now finds that even though he was a career employee at Hill, the appointment he accepted was excepted and he will have no reemployment rights when he completes his 5-year overseas assignment and returns to this country. He has been advised he is eligible to receive placement assistance, but nothing more.

It seems to me that this discriminates against the career employee who accepts an overseas post which happens to be excepted. He returns to this country after a number of years abroad with no assurances of a job. If he has a family and other obligations this puts an extra burden on him, and the period of uncertainty he must go through works a hardship on them as well as on him.

The bill I am introducing today would go far toward eliminating this inequity. If a full-time Defense Department career employee with continuous civil service tenure accepts overseas assignment at the request of the Department he would, in most instances, retain his reemployment rights.

This bill would apply only in the case of persons in civilian employment of the Department of Defense on or after the date of enactment of the bill.

I ask that the full text of the bill be printed at the close of the statement.

The ACTING PRESIDENT pro tempore. The bill will be received and appropriately referred; and, without objection, the bill will be printed in the RECORD.

The bill (S. 3357) to provide reemployment rights for certain Department of Defense personnel in the excepted service, introduced by Mr. Moss was received, read twice by its title, referred to the Committee on Post Office and Civil Service, and ordered to be printed in the RECORD, as follows:

S. 3357

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 1586 of title 10, United States Code, is amended—

(1) by striking out "career-conditional and career" in the section caption; and

(2) by striking out clause (1) of subsection (b) and inserting in lieu thereof the following:

"(1) who, while serving as a full-time employee under an appointment with continuous tenure in the civil service (other than an excepted appointment of a confidential or policy-determining character), is assigned at the request of the department concerned to duty outside the United States,".

(b) The analysis of chapter 81 of such title is amended by striking out "career-conditional and career" in item 1586.

SEC. 2. The amendments made by the first section of this Act shall become effective as of July 5, 1960, and shall apply only in the case of persons in the civilian employment of the Department of Defense on or after the date of enactment of this Act.

S. 3359—INTRODUCTION OF A BILL ELIMINATING SOCIAL SECURITY BENEFITS FROM ANNUAL INCOME REQUIREMENTS FROM VETERANS PENSIONS AND DEPENDENCY AND INDEMNITY COMPENSATION

Mr. YARBOROUGH. Mr. President, I introduce, for appropriate reference, a bill which would cure a glaring inequity in our present veterans pension laws by disregarding social security benefits in determining eligibility for or the amount of:

First, dependency and indemnity compensation for parents of deceased veterans; and

Second, non-service-connected pen-

sions for veterans and widows of veterans.

Our present veterans laws provide monthly dependency and indemnity compensation to the parents of a deceased veteran if the parents' income does not exceed a certain yearly amount. In the case of only one surviving parent, compensation is paid to that parent on a sliding scale so long as the parent's total annual income does not exceed $2,000. Where both of the veteran's parents survive him, they are entitled to monthly compensation so long as their total combined income annually does not exceed $3,200.

These compensation payments are not large. On the contrary, these payments in the case of one surviving parent range from $87 a month to $10, depending on the amount of annual income of the parent or parents.

In determining the total annual income of parents of deceased veterans, all the income received by the parent or parents is included unless it falls within one of the 12 types which are expressly excluded from total income by the law. In the case of social security benefits, only 10 percent of these payments are excluded from the computation of total income. Because of the inclusion of 90 percent of social security benefits as part of total annual income, many parents of deceased veterans who are presently drawing dependency and indemnity compensation will be penalized rather than helped by the recently enacted 15 percent increase in social security benefits.

The problem is even more acute in the case of veterans and widows of veterans receiving pensions under chapter 15 of title 38 of the United States Code. Under this chapter veterans of World War I, World War II, and the Korean conflict may receive monthly pensions if they are over the age of 65 or totally and permanently disabled from nonservice-connected causes and provided they meet the service and annual income requirements of the law. Surviving children and widows of veterans are also entitled to monthly pensions under this chapter provided they also meet the income tests provided by this law.

As in the case of parents of deceased veterans, the amount of pension a veteran or his survivor receives under chapter 15 is determined by his total annual income. In the case of a single veteran, the amount of his monthly pension will range from $110 to $29 depending on his annual income. However, should his annual income exceed $2,000, he will lose his pension.

A veteran who has dependents may receive a monthly pension ranging from $130 to $34 depending on his annual income and the number of dependents he has. However, should his annual income exceed $3,200 he will also lose his pension.

The pensions payable to widows and surviving children are also based on total annual income. For a widow, the maximum income she can make and still be eligible for a veterans pension is $2,000 with no children and $3,200 with children. In cases where the veteran's widow does not survive him but his children do, the children are entitled under the present law to a monthly pension if their earned income does not exceed $1,800 a year.

Like dependency and compensation payments, annual income for pensions to veterans or their survivors includes 90 percent of the recipient's social security benefits. Therefore, in many cases the 15 percent social security increase which Congress provided in the Tax Reform Act will actually work to the disadvantage of individuals drawing these pensions instead of to their benefits.

In some instances, the 15-percent increase in social security benefits will have no effect on the amount of pension the veteran or his survivor receives. For example, a veteran who receives the minimum social security benefit of $55 per month and has only $107 of other income will have a total income for pension purposes of $701. Thus he is entitled to a pension of $96 per month because his total annual income is between $700 and $800. The increase in his social security benefits to $64 per month only increases his total annual income to $798, which is still within the $700 to $800 category. Thus his veterans pension remains the same.

In other cases, however, the increased social security benefits will actually result in a net loss for the veteran or his survivor. For instance if the social security increase raises the veteran's or his survivor's total annual income above the limitation mark of $2,000 or $3,200, the loss of the veterans pension will be greater than the increase in social security benefits thus causing a net loss. For example, a single veteran with a total annual income of $2,000 is entitled under present law to a monthly pension of $29. If this veteran receives a monthly increase in his social security benefits of $9 this will increase his total annual income above the $2,000 mark thus making him ineligible for any veterans pension. The net effect of this would be that the veteran would give up $20 a month in veterans pension benefits for $9 a month in social security benefits. Thus, the veteran will actually lose $240 a year because of this increase in social security benefits.

A net loss can also result even if the veteran remains eligible for pension if the amount of the social security increase and the amount of his other income are such that he moves across two of the $100 income brackets in the pension tables. For example, a veteran may be getting monthly social security payments of $75.10 a month and have other income of $688 per year. For pension purpoes, this would make his total annual income $1,499 making him eligible for a pension of $63 per month. Under Public Law 91-172, his social security would be increased to $86.40 per month raising the total income on which his pension is based from $1,499—in the $1,400 to $1,500 bracket—to $1,611—in the $1,600 to $1,700 bracket—and lowering his monthly pension from $63 to $51. Thus his total annual income would be reduced since his monthly social security goes up by $11.30 while his pension goes down by $12.

The effects of the increase in social security benefits on veterans' pensions will not be felt until 1971 since an increase in total annual income is not reflected in the amount of pension a veteran or his survivor receives until the year after the increase in income occurs. However, I have a table which shows examples of the effects on the 15 percent social security increase on the amount of pension the veteran receives. The last column of this table shows the increase, if any, in social security benefits the veteran actually will receive after his veterans' pension is reduced. Mr. President, I ask unanimous consent that this table be printed in the RECORD at this point in my remarks.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

THE EFFECT OF THE SOCIAL SECURITY BENEFIT INCREASE UNDER PUBLIC LAW 91-172 ON THE INCOME IN 1971 OF VETERANS ENTITLED TO PENSIONS UNDER SECTION 521(b) OF TITLE 38, UNITED STATES CODE—EXAMPLES

Example number	Annual income: Social security	Other income	Veterans' pension	Total income	Effective social security increase (percent)
1. Prior law	$660	0	$1,248	$1,908	9.1
Public Law 91-172	[1] 768	0	1,200	1,968	
2. Prior law	660	$200	1,152	2,012	9.1
Public Law 91-172	768	200	1,104	2,072	
3. Prior law	660	600	948	2,208	9.1
Public Law 91-172	768	600	900	2,268	
4. Prior law	660	1,200	540	2,400	1.8
Public Law 91-172	768	1,200	444	2,412	
5. Prior law	1,206	0	1,008	2,214	6.1
Public Law 91-172	[2] 1,387	0	900	2,287	
6. Prior law	1,206	200	900	2,306	3.1
Public Law 91-172	1,387	200	756	2,343	
7. Prior law	1,206	600	612	2,418	1.1
Public Law 91-172	1,387	600	444	2,431	
8. Prior law	1,496	0	828	2,324	5.5
Public Law 91-172	[3] 1,722	0	684	2,406	
9. Prior law	1,496	200	684	2,380	5.5
Public Law 91-172	1,722	200	540	2,462	
10. Prior law	1,496	600	348	2,444	(4)
Public Law 91-172	1,722	600	0	2,322	

[1] Annual equivalent of minimum social security benefit (for a worker retiring at or after age 65) of $55 increased to $64 by Public Law 91-172.
[2] Social security benefit of $100.50 increased to $115.60 by Public Law 91-172.
[3] Social security benefit of $124.70 increased to $143.50 by Public Law 91-172.
[4] No increase; annual income decreases by $122, in effect a social security decrease of 8.2 percent.

Mr. YARBOROUGH. Mr. President, in summary, this 15-percent increase in social security can have three possible effects on veterans pensions:

First, in some cases, there will be no reduction in pension income since the increase in social security benefits will leave the veteran or his survivor in the same income bracket.

Second, in some cases, the veterans

total income will rise despite a reduction in pension benefits. There the veteran or his survivor will receive an increase in his net income of less than 15 percent.

Third, finally, in some cases the reduction in pension income will be greater than the 15-percent increase in social security benefits thus causing the veteran or his survivor to suffer a net loss in income.

This perplexing problem arises every time social security benefits are increased. Several approaches have been taken in the past to lessen the impact of these increases on veterans pensions and dependency and indemnity compensation. One method that has been resorted to is to provide more and smaller income brackets so that an increase in annual income would not cause large reductions in the amount of the veterans pensions. Another way to cope with the problem is to reduce the pension in steps rather than all at once. None of these approaches are satisfactory.

I firmly believe that Congress must face the basic fact that social security benefits should not be considered in calculating annual income for veterans pensions and dependency and indemnity compensation. Social security was never intended to be the equivalent of private income. On the contrary, social security was intended to be a means by which our Government can provide our senior citizens with a measure of protection against the hazards and hardships of old age. To allow social security benefits to be used as a tool to weaken other Government pension laws is to distort the purpose of the Social Security Act. Social security is an independent program and should be treated as one.

As of October 31, 1969, there were 1,118,112 veterans entitled to pensions based on non-service-connected disabilities. On that same date, there were 1,134,253 survivors of deceased veterans receiving pensions based on non-service-connected deaths. These people are all in the twilight of their lives and are living in poverty or near poverty conditions. Their social security and veterans pensions are all that keep many of them going. It is cruel, heartless, and grossly unfair to offer them a 15-percent increase in social security with one hand and reduce their pensions with the other.

The bill I introduce today offers the only realistic solution to this dilemma. This bill would exclude all social security benefits from the computation of annual income for veterans pensions and dependency and indemnity compensation for parents of deceased veterans. My bill, if enacted, would allow these citizens to receive the pensions to which they are entitled and the social security benefits which rightfully are theirs under our laws. This is the only approach which is fair and in keeping with the spirit and purpose of the Social Security Act. I urge my colleagues to join with me in this fight to better the lives of our senior citizens. I request unanimous consent that this bill be printed at this point in the RECORD.

The ACTING PRESIDENT pro tempore. The bill will be received and appropriately referred; and, without objection, the bill will be printed in the RECORD.

The bill (S. 3359), to amend title 38, United States Code, so as to provide that social security benefits shall be disregarded in determining elgibility for or the amount of dependency and indemnity compensation of dependent parents or in determining eligibility for or the amount of non-service-connected pension of veterans and widows of veterans, introduced by Mr. YARBOROUGH, was received, read twice by its title, referred to the Committee on Finance, and ordered printed in the RECORD, as follows:

S. 3359

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That clause (G) of section 415(g) of title 38, United States Code, is amended to read as follows:

"(G) all payments to an individual under section 202 or 223 of the Social Security Act and 10 per centum of the amount of payments to an individual under any other public or private retirement, annuity, endowment, or similar plans or programs;"

SEC. 2. Section 503(6) of title 38, United States Code, is amended to read as follows:

"(6) all payments to an individual under section 202 or 223 of the Social Security Act and 10 per centum of the amount of payments to an individual under any other public or private retirement, annuity, endowment, or similar plans or programs;"

SEC. 3. In determining annual income for purposes of payment of pension under the first sentence of section 9(b) of the Veterans' Pension Act of 1959, all payments to an individual under section 202 or 223 of the Social Security Act shall be disregarded.

S. 3360—INTRODUCTION OF A BILL PROVIDING FOR PAYMENT OF SERVICEMEN'S GROUP LIFE INSURANCE BENEFITS DIRECTLY TO A MINOR WIDOW OR WIDOWER WHERE STATE LAW PROHIBITS PAYMENT OF INSURANCE TO MINORS

Mr. BAYH. Mr. President, I introduce, for appropriate reference, a bill to authorize payment of servicemen's group life insurance benefits directly to a minor widow or minor widower.

At present, servicemen's group life insurance payments are settled in accordance with State laws. While the Veterans' Administration oversees the administration of the servicemen's group life insurance program, the benefits are paid by a private insurance company under a group life policy purchased by the VA from the insurance company. As a result, the rules and regulations governing the settlement of the policy are State rules and regulations. In most cases, as a survey of State insurance laws reveals, the States limit direct payments to minors to $3,000 in any one year. In my own State of Indiana, for example, minors may not receive more than $2,500 directly from an insurance claim.

Mr. President, these State statutes are well intentioned. They are based on the assumption that a minor is not fully capable of handling large sums of money and is more susceptible to the blandishments of unscrupulous people than an older person. In the case of a minor widow, however, this arbitrary limitation could work a great hardship on the widow, particularly at a time when financial assistance is most needed—immediately following the death of the husband.

In addition to limiting the size of benefits payable directly in any one year, most States require the minor to establish a guardianship in order to receive more than the statutory limit. This additional requirement results in unnecessary expenses, delay, and needless depletion of the benefits that would otherwise be available to the widow.

It is interesting to note, Mr. President, that in every program administered directly by the Veterans' Administration, full payments can be made to a minor widow directly. The Veterans' Administration has indicated to me that their experience with this policy has revealed no unusual dissipation of benefits. I simply do not see any reason to continue denying to minor widows, many of them responsible for the support of children, their rightful and full benefits under servicemen's group life insurance.

Mr. President, I ask unanimous consent that a letter to me from one of my constituents, Mrs. Donna Glover, which first brought this inequity to my attention be included in the RECORD, along with a survey of State insurance laws prepared by the Library of Congress.

The ACTING PRESIDENT pro tempore. The bill will be received and appropriately referred; and, without objection, the letter and survey will be printed in the RECORD.

The bill (S. 3360), to amend section 770 of title 38, United States Code, to provide for the payment of servicemen's group life insurance benefits directly to a minor widow or widower where State law prohibits payment of insurance to minors, introduced by Mr. BAYH, was received, read twice by its title, and referred to the Committee on Finance.

The material furnished by Mr. BAYH follows:

NOVEMBER 24, 1969.

Hon. BIRCH BAYH,
U.S. Senate,
Washington, D.C.

DEAR SENATOR BAYH: First, let me thank you for your letter that I received after the death of my husband, S. Sgt. Larry Ray Glover, in Viet Nam on October 7. I found it comforting to know that you too, had feelings of sympathy for us as his surviving family. In your letter, you said that if there was any possible way that you could help, you would be willing to do so. I am writing in hopes that you may be able to correct a difficult situation for me—or at least, give me some helpful information on the matter.

The military helped us in every possible way. I was blessed with an efficient and understanding Survival Assistance Officer, Captain Thomas Boyce Pozniak, stationed at Fort Harrison. He did everything he could as an Army Representative and friend to help us through this tragic time.

I have been confronted with one problem that the Army is not able to answer, though, and I hope you may be able to help me in some way. I realize that you are a federal legislator and my problem concerns a state law, but will you please look into the matter for me?

Since I am the widow in this case, I am also the beneficiary of the insurance benefits. The state of Indiana has a law which states that I cannot receive more than $2500 in one year from an insurance claim until I am 21

years of age. I am 19 years old, and this means that a guardianship must be appointed for me to sign the insurance company's release for payment, or the company can hold the money at a loss of interest on my part. Either way, to me, it is an expense and an inconvenience.

To be truthful, I am not in desperate need because I am working and able to support myself. But every widow is not in my position and that is why I would like for you to see if this law could be altered. Many widows of servicemen are under 21 years of age because most of our men dying in service are not older than 21, themselves. Many of these same widows have children to support. In other words, the insurance benefit is a definite need to them and I feel they are entitled to the payment their husbands had set aside for them without legal involvement.

I believe the law that Indiana has regarding this matter is very good at a time when a parent has his minor children as beneficiaries but this law is very improper in the case of a widow. We are of legal age to have the responsibilities of marriage (and widowhood) at 18, but the law says we are not capable of managing our own financial affairs. I believe you will agree that this does not make sense.

I have not made a decision concerning the receipt of the insurance payment yet. I will wait to see if an alteration could possibly be made in this law because even though I do not need the money presently, I am responsible for making my own living for the rest of my life since my husband passed away in service to his country. I do not want to spend more than $200 unnecessarily in getting a guardianship appointed or lose interest that I could accumulate before I reach the age of 21; so I will wait for a reply concerning my request that you check on this State Law for me.

Please answer as soon as possible because it is a matter that not only concerns me, but also two insurance companies waiting for signed releases and many other young widows. I will appreciate any information or help that you can give.

Sincerely,

Mrs. DONNA S. GLOVER.

NEW WHITELAND, IND.

[From the Library of Congress Legislative Reference Service]

STATE REGULATION OF LIFE INSURANCE PAYMENTS TO MINORS

(Compiled by Stephen C. Orenstein)

ALABAMA

Alabama Code tit. 28, § 4(3)—Any minor who has reached the age of 18 is competent to receive payments not exceeding $3,000 in one year. If a guardian has been appointed over the property of the minor and written notice to this effect has been given then payments must be made through the guardian.

ALASKA

Alaska Stat. § 21.42.290—Any minor who has reached the age of 16 is competent to receive payments not exceeding $3,000 in one year; unless, a guardian has been appointed and written notice given.

ARIZONA

Arizona Rev. Stat. Ann. Tit. 20, § 1126—Any minor who has reached the age of 18 is competent to receive payments not exceeding $2,000 in one year.

ARKANSAS

Arkansas Stat. Ann.—None.

CALIFORNIA

California Codes—None.

COLORADO

Colorado Rev. Stat. Ann. § 72-1-56 (cumm. supp. 1965 vol. 4)—Any minor who has reached the age of 18 is competent to receive payments not exceeding $2,500 in one year; unless, a guardian has been appointed and written notice given.

CONNECTICUT

Connecticut Gen. Stat. Rev.—None.

DELAWARE

Delaware Code Ann. tit. 18, § 2723—Any minor who has reached the age of 18 is competent to receive payments not exceeding $3,000 in one year. If a guardian has been appointed over the property of the minor and written notice to this effect has been given then payments must be made through the guardian.

DISTRICT OF COLUMBIA

D.C. Code Ann.—None.

FLORIDA

Fla. Stat. § 627-0123—Any minor who has reached the age of 16 is competent to receive payments not exceeding $3,000 in one year. If a guardian has been appointed over the property of the minor and written notice to this effect has been given then payments must be made through the guardian.

GEORGIA

Ga. Code Ann. § 56-2425—Any minor who has reached the age of 18 is competent to receive payments not exceeding $3,000 in one year. If a guardian has been appointed over the property of the minor and written notice to this effect has been given then payments must be made through the guardian.

HAWAII

Hawaii Rev. Laws § 431-438—Any minor who has reached the age of 18 is competent to receive payments not exceeding $2,000 in one year.

IDAHO

Idaho Code Ann.—None.

ILLINOIS

Illinois Rev. Stat.—None.

INDIANA

Ind. Ann. Stat. § 39-4210-a—Any minor who has reached the age of 18 is competent to receive payments not exceeding $2,500 in one year.

IOWA

Iowa Code Ann. § 633.574—A general section not specifically dealing with insurance. Where money due a minor is not more than $1,000 and no conservator has been appointed, the money may be paid to a parent. See 16 Iowa Law Review 419 for the insurance aspect.

KANSAS

Kan. Stat. Ann.—None.

KENTUCKY

Ky. Rev. Stat. Ann. § 304.689—Any minor who has reached the age of 18 is competent to receive payments not exceeding $2,000.

LOUISIANA

La. Rev. Stat. Ann. § 22.644—Any minor who has reached the age of 18 is competent to receive payments not exceeding $2,000.

MARYLAND

Md. Ann. Code art. 93A, § 501—A person under a duty to pay money to a minor may pay not more than $5,000 per annum to the minor if he is at least 18 or is married. If the minor is not 18 or married then the payments should be made to the guardian of the minor if he has knowledge of one. If there is no guardian or knowledge of one, then payment should be made to a parent or other relative with whom the minor resides. If there are none then payments should be made to a financial institution and the minor can withdraw only with the permission of the court.

MASSACHUSETTS

Mass. Gen. Laws Ann. Ch. 175 § 128A—Any minor who has reached the age of 18 is competent to receive payments not exceeding $2,000 in one year; unless, written notice that a guardian of the minors property has been appointed.

MICHIGAN

Mich. Comp. Laws Ann. § 500.2206—Any minor who has reached the age of 18 is competent to receive a single payment not exceeding $2,000 in one year.

MINNESOTA

Minn. Stat. Ann. § 61A.12 Subd. 3—Where there is no qualified quardianship and the minor is at least 18 he is competent to receive $100 per month.

MISSISSIPPI

Miss. Code Ann. § 5687—If the beneficiary is at least 15 years old and one of the enumerated persons (certain close relatives to insured), he may receive unlimited benefits. If he is under 15, it appears he would be required to receive the payments through a guardian. Also he must be the purchaser of the insurance.

MISSOURI

Mo. Ann. Stat.—None.

MONTANA

Mont. Rev. Codes Ann. § 40-3731—Any minor who has reached the age of 16 is competent to receive payments not exceeding $3,000 in one year; unless, written notice of the appointment of a guardian over the property of the minor has been received.

NEBRASKA

Neb. Rev. Stat. § 44-705—A minor who has reached the age of 14 is competent to give a valid discharge for benefits provided a parent or guardian gives written approval.

NEVADA

Nev. Rev. Stat. § 690.080—A minor can give a valid discharge for any money payable to him, but if he is under 16 he needs the written approval of a parent or guardian.

NEW HAMPSHIRE

N.H. Rev. Stat. Ann.—None.

NEW JERSEY

N.J. Rev. Stat. § 17:34-30—Any minor is competent to receive payments not exceeding $2,000 in one year if he is less than 15 years old and payments not exceeding $5,000 in one year if he is less than 18 years old; unless, written notice of the appointment of a guardian has been received.

NEW MEXICO

N.M. Stat. Ann. § 58-8-1.5—Any minor who has reached the age of 18 is competent to receive payments up to $3,000 in one year; but if written notice of the appointment of a guardian is given payments must be made to the guardian.

NEW YORK

Ins. Law § 145—same as N.M.

NORTH CAROLINA

N.C. Gen. Stat. § 2-52—Payments may be made to the Clerk of the County Court, as long as the total proceeds of the policy are not over $1,000, for the benefit of a minor. The Clerk then makes payments to the minor.

NORTH DAKOTA

N.D. Cent. Code—None.

OHIO

Ohio Rev. Code Ann. § 3911.08—A minor who is 15 years old, or older may give a valid discharge for benefits accruing under a policy. The insurance must be issued for the benefit of the minor.

OKLAHOMA

Okla. Stat. § 3627—A minor who has reached the age of 16 is competent to receive payments not exceeding $2,000 in one year.

OREGON

Ore. Rev. Stat. § 743.090—A minor who has reached the age of 18 is competent to receive payments not exceeding $3,000 in one year provided no written notice that a guardian has been appointed is received. If writ-

ten notice was given, payments are to be made to the guardian.

PENNSYLVANIA

Pa. Stat. tit. 40 § 572—A minor who has reached the age of 18 is competent to receive payments not exceeding $3,000 in one year.

RHODE ISLAND

R.I. Gen. Laws Ann.—None.

SOUTH CAROLINA

S.C. Code Ann. § 10-2551 (1968 Cumm. Supp.)—When a minor becomes entitled to a sum not exceeding $2,500 and no guardian has been appointed, the court may make an order of payment to the minor or his parent if he decides the sum is too small to warrant the appointment of a guardian. § 10-2552—When a guardian has been appointed and the sum is $1,000 or less the court may order the sum paid to the minor or parent after which the guardian may be discharged. (2552 appears to apply to benefits under a will.)

SOUTH DAKOTA

S.D. Code—None.

TENNESSEE

Tenn. Code Ann.—None.

TEXAS

Tex. Ins. Code Art. 3.49-2—Minors over 14 years old can receive benefits under a policy they own insuring the life of certain relatives or his own life.

Tex. Prob. Code § 144—Debtors who owe a minor a sum not exceeding $500 may deposit the sum with the Clerk of the Court.

UTAH

Utah Code Ann. § 31-19-31—Same as Oregon.

VERMONT

Vt. Stat. Ann. tit. 8 § 3711—Same as Oregon.

VIRGINIA

Va. Code Ann. § 8-751—Where a judge or court has control over a fund (whether a suit is pending or not) and a minor is entitled to not more than $2,500 in one year the Court may order payment made to a parent or if there is no parent a person deemed by the Court to be competent for the education, maintenance and support of the minor. If the Court in its discretion feels the minor is of sufficient age, it may order payments directly to the minor.

WASHINGTON

Wash. Rev. Code Ann. § 48.18.380—Any minor who has reached the age of 18 is competent to receive payments not exceeding $2,-000 in one year.

WEST VIRGINIA

W. Va. Code Ann. § 33-6-23—Same as Washington.

WISCONSIN

Wis. Stat. Ann.—None.

WYOMING

Wyo. Stat. Ann. § 26.1-329—Any minor who has reached the age of 18 is competent to receive payments not exceeding $2,300 in one year. If a guardian has been appointed over the property of the minor, payments shall be made to him.

S. 3361—INTRODUCTION OF A BILL TO CREATE ONE ADDITIONAL PERMANENT DISTRICT JUDGESHIP IN OREGON

Mr. HATFIELD. Mr. President, I introduce a bill to create a fourth U.S. district court judge position for the District of Oregon. I do this because I am concerned that justice afforded by a prompt trial must not be jeopardized by a long delay before a case can be heard.

Currently, Oregon has three hard-working district court judges. The senior and chief judge, Judge Gus J. Solomon, is known throughout judicial circles as one of the hardest working district court judges in the country. In fact, when one examines the caseload of the Oregon court, it is a tribute indeed that three men can handle the caseload as expeditiously as they do.

Mr. President, Oregon enters the 1970's facing predictions of rapid population growth. The addition of a fourth judge would guarantee that Oregon citizens will be afforded prompt access to the Federal courts.

Although I am not a lawyer, I am aware of the growing complexity of Federal court cases. A glance at the docket shows many cases dealing with very complex and difficult issues. This means that a judge is removed from normal case disposal, often for weeks at a time, to hear and decide these multifaceted and hydraheaded lawsuits.

Mr. President, I ask the Congress to act in a prompt way to insure that we will act before Oregon faces a crisis situation in its Federal courts. In closing, I draw attention to a recent article in the Portland Oregon Journal, by Ken Jumper, which discusses the caseload problem. I ask unanimous consent that this article be printed in the RECORD.

The ACTING PRESIDENT pro tempore. The bill will be received and appropriately referred; and, without objection, the article will be printed in the RECORD.

The bill (S. 3361), to create one additional permanent district judgeship in Oregon, introduced by Mr. HATFIELD, was received, read twice by title, and referred to the Committee on the Judiciary.

The article presented by Mr. HATFIELD follows:

FOURTH FEDERAL JUDGE DUE IN 1970'S TO EASE HEAVY WORKLOAD IN OREGON

(By Ken Jumper)

Some time in the 1970's Oregon probably will acquire a fourth federal judge.

It needs one now, according to statistical evidence and to the testimony offered by persons who are intimately involved in the federal judicial system as it pertains to Oregon.

The awareness that Oregon does need an additional federal judge is not new but it has received little public discussion. Last November, during ceremonies renaming the Old Pioneer Post Office, Chief U.S. District Court Judge Gus J. Solomon made a fleeting reference to the impending need. Other than his brief statement, there has been virtually no "on-the-record" talk about it.

But statistics, coupled with the evaluation offered by persons who run the courts and practice in them, point to a steadily increasing caseload which to some extent mirrors a corresponding rise in the state's population.

In brief, Oregon's three federal judges are, and have been for some time, overworked. The pressure on them is reflected in tight courtroom procedures and a corps of lawyers who are not permitted the luxury of rhetoric.

Oregon's third judgeship was created in 1949-50 when the state's population stood at 1,511,200, according to U.S. Bureau of Census figures.

By 1960 the population had climbed to 1,768,687, a 17 per cent increase. And it is projected that by 1975, the population will have swollen to 2,239,000.

With more people come more court cases.

In 1962, Oregon's three federal judges presided at 137 civil and criminal trials and each judge had a weighted caseload of 237.

Those figures have mounted steadily since and in 1968, the three judges presided at 205 trials and each had a weighted caseload of 305.

A statistical method of evaluating and rating various cases based on a formula with several integral parts is used to weigh each case. A zero to four scale is used and the more complicated a case is, the higher it is ranked on that scale. A Dyer Act Violation, for instance, would rate lower than a complicated antitrust case in the area of weighting.

But despite the high number of trials and large weighted caseload, Oregon judges are doing good work—and more of it—than many of their peers in the nation's 89 districts which have 323 judgeships. In fact, Oregon's judges rank among the highest in the nation when it comes to productivity.

Take New Jersey, for instance. That district now has eight judges and is seeking one more on a fulltime basis and one in a temporary position. Yet in 1968, those eight judges handled only 170 criminal and civil trials and had a weighted caseload of 225 each, both figures considerably lower than Oregon's.

Ohio is another example. Seven judges (the state wants another judge) in 1968 presided at 196 trials and had a weighted caseload of 255, statistics that again are substantially lower than Oregon's.

There are many other instances where the same condition prevails.

Admittedly, Oregon's federal courts do not get as many or large complicated cases as do some districts in the East or other large metropolitan areas. And because traffic problems in Oregon are not as serious as in larger metropolitan districts, the courts here can work juries longer hours.

Where other districts may take two or three days for a jury trial, Oregon's federal courts find that one day is usually sufficient.

This means, of course, that "the judge must run a good, tight court," Solomon says.

"We can't enjoy the luxury of letting a lawyer talk ad infinitum, nor can we spoon-feed them," Solomon notes.

Judge Robert C. Belloni says that "his schedule is so tight that he has no time for outside and necessary scholarship. Maintaining this kind of a schedule eventually results in a judge losing his effectiveness," Belloni says.

U.S. attorney Sidney I. Lezak says the pressure under which the judges operate here is "reflecting in the sometimes frantic efforts of lawyers to comply with standards of performance that are extremely high. The atmosphere in the courts here cannot frequently be described as relaxed," although there are individual differences between judges in this respect.

"We joke a lot about the speed with which things are required to be done here, but the humor is a veneer for more tension than is experienced in most courts," Lezak says.

Lawyers who have a great deal of practice in federal court tend to agree with Lezak's appraisal.

"They call Solomon 'Fast Gavel Gus' and he's probably the fastest in the West," one lawyer quips. "But he turns serious and adds But I don't see that he has any choice with the amount of work that he has to do."

And, says another attorney, "it's going to get worse before it gets better." In addition to burgeoning population, we're getting more and more government participation and impingement in virtually all areas of experience.

"Look back to 1949 when Oregon's last judgeship was created and see how many new types of cases that we have in the courts now that were never even heard of then," he notes.

Creation of a fourth judgeship for Oregon is the responsibility of Congress. It is

a slow and cumbersome process and to date there has been no concerted drive on the part of any interested parties to get the ball rolling.

But if the state is to get the court it needs, that drive had better be initiated soon if it is to come within the next decade. A study shows that the average time between the initial drum beating and final creation of the judgeship is six years.

ADDITIONAL COSPONSORS OF BILLS

S. 2658

Mr. BYRD of West Virginia. Mr. President, at the request of the Senator from Texas (Mr. YARBOROUGH), I ask unanimous consent that, at the next printing, the name of the senior Senator from Wyoming (Mr. MCGEE) be added as a cosponsor of S. 2658, to entitle veterans of World War I and their widows and children to pension on the same basis as veterans of the Spanish-American War.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

S. 3154

Mr. WILLIAMS of New Jersey. Mr. President, I ask unanimous consent that, at the next printing, the name of the Senator from Massachusetts (Mr. KENNEDY) be added as a cosponsor of S. 3154, to provide long-term financing for expanded urban public transportation programs, and for other purposes. His name was inadvertently omitted.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

S. 3356

Mr. BYRD of West Virginia. Mr. President, at the request of the Senator from Minnesota (Mr. MONDALE), I ask unanimous consent that, at the next printing, the name of the Senator from Missouri (Mr. EAGLETON) be added as a cosponsor of S. 3356, to require the Secretary of Agriculture to make advance payments to producers under the feed grain program.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ADDITIONAL COSPONSOR OF A RESOLUTION

Mr. SCOTT. Mr. President, at the request of the Senator from Oregon (Mr. PACKWOOD), I ask unanimous consent that, at the next printing, the names of the Senator from Washington (Mr. MAGNUSON), the Senator from Oregon (Mr. HATFIELD), the Senator from Alaska (Mr. STEVENS), the Senator from Idaho (Mr. CHURCH), and the Senator from California (Mr. CRANSTON) be added as cosponsors of Senate Resolution 313, relating to the detoxification and destruction of chemical warfare weapons.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

THE ELEMENTARY AND SECONDARY EDUCATION ACT AMENDMENTS OF 1970—AMENDMENT

AMENDMENT NO. 469

Mr. ERVIN (for himself, Mr. ALLEN, Mr. EASTLAND, Mr. HOLLAND, and Mr. SPARKMAN), submitted an amendment, intended to be proposed by him to the bill (H.R. 514), to extend programs of assistance for elementary and secondary education, and for other purposes, which was ordered to lie on the table and to be printed.

ADDITIONAL COSPONSORS OF AN AMENDMENT

AMENDMENT NO. 449

Mr. CRANSTON. Mr. President, I ask unanimous consent that, at the next printing, the names of the Senator from California (Mr. MURPHY), the Senator from New Jersey (Mr. CASE), the Senator from Alaska (Mr. GRAVEL), the Senator from Michigan (Mr. HART), the Senator from Maine (Mr. MUSKIE), the Senator from Wisconsin (Mr. NELSON), and the Senator from Connecticut (Mr. RIBICOFF) be added as cosponsors of amendment No. 449 to S. 3154, to provide long-term financing for expanded urban public transportation programs, and for other purposes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

EXTENSION OF TIME FOR FILING OF REPORT OF SENATE SPECIAL COMMITTEE ON AGING

Mr. WILLIAMS of New Jersey. Mr. President, I ask unanimous consent that the time for filing the report of the Senate Special Committee on Aging be extended from January 31 to March 15, 1970.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

CORRECTION OF ANNOUNCEMENT OF PUBLIC HEARINGS ON OIL SPILL PROBLEM AT SANTA BARBARA, CALIF.—ANNOUNCEMENT OF HEARINGS ALSO ON S. 3351

Mr. MOSS. Mr. President, earlier this week I announced public hearings on several bills before the Minerals, Materials, and Fuels Subcommittee, which bills deal with the oil spill problem at Santa Barbara, Calif. I overlooked in that announcement S. 3351 by the Senator from California (Mr. MURPHY), which will be considered at the public hearing along with the other bills which I mentioned.

NOTICE CONCERNING NOMINATIONS BEFORE THE COMMITTEE ON THE JUDICIARY

Mr. EASTLAND. Mr. President, the following nominations have been referred to and are now pending before the Committee on the Judiciary:

Whitney North Seymour, Jr., of New York, to be U.S. attorney for the southern district of New York for a term of 4 years, vice Robert M. Morgenthau.

Laurence C. Beard, of Oklahoma, to be U.S. marshal for the eastern district of Oklahoma for the term of 4 years, vice Jackie V. Robertson.

On behalf of the Committee on the Judiciary, notice is hereby given to all persons interested in these nominations to file with the committee, in writing, on or before Friday, February 6, 1970, any representations or objections they may wish to present concerning the above nominations, with a further statement whether it is their intention to appear at any hearing which may be scheduled.

STATEMENT CONCERNING HEARINGS ON VIETNAM POLICY PROPOSALS

Mr. FULBRIGHT. Mr. President, all Americans have reason to be gratified by President Nixon's actions to deescalate the Vietnam war. After 4 years of constant buildup, the policy has been changed to a point where there are now more American boys coming home than are being sent over. But still replacements are being sent, some 750 casualties are being inflicted on our troops each week, and the war is draining $70 million a day out of the taxpayers' pockets. Although the public temper has, fortunately, subsided, a final end to the war does not seem to be any closer today than it was a year ago. Indeed, my fear is that the current policy will keep the United States bogged down in Vietnam—with the killing and cost continuing—indefinitely.

It will be recalled that the Committee on Foreign Relations had scheduled public hearings for the week of October 27 on a number of pending Vietnam policy proposals. Shortly after those hearings were announced, the President scheduled a speech on Vietnam policy for November 3. The committee then announced that its hearings were being postponed, explaining that "as a matter of courtesy, it seemed proper for the committee to defer its hearings until after the President has spoken."

Since that time, other policy proposals have been introduced in the Senate and there are now nine separate Vietnam policy measures pending before the committee. The committee cannot ignore them or pretend that the proposals have not been made. The introduction and consideration of these proposals is in keeping with the best traditions of our constitutional system, which assign to the Senate a special responsibility in the formulation of foreign policy. The committee, following normal procedure, asked for the views of the executive branch on the proposals and, with the exception of Senator MATHIAS' resolution—Senate Joint Resolution 166—the comments on them have been received and made public. The next step will be to hear testimony on the proposals from the sponsors and other interested Senators. These hearings are scheduled for Tuesday and Wednesday of next week. In preparation for the hearing the committee, in December, sent two staff members, James G. Lowenstein and Richard M. Moose, to South Vietnam to study the situation there. Their report will be released on Monday.

I hope that the hearings result in producing new policy initiatives which assist in bringing the bloody conflct in Vietnam to an end. The executive branch does not have a monopoly on ideas or judgment.

The hearings will be held on February 3 and 4, beginning at 10 a.m. each day, in the Caucus Room of the Old Senate Office Building. The witnesses scheduled for February 3 are Senators GOODELL, HUGHES, EAGLETON, and MATHIAS. Sena-

tors scheduled to testify on the 4th are SCOTT, DOLE, HARTKE, MCGOVERN, and YOUNG of Ohio, in addition, Senator JAVITS will testify on one of the 2 days.

THE WRONG VETO, FOR THE WRONG PURPOSES, AT THE WRONG TIME

Mr. McINTYRE. Mr. President, the President of the United States has vetoed the Labor-Health, Education, and Welfare appropriation bill and his veto has been sustained.

In vetoing this bill, the President said the increased funds in it were for "the wrong amount, for the wrong purposes, and at the wrong time."

I respectfully must disagree with the President. I believe his action was the wrong veto, for the wrong purposes, at the wrong time.

The President said in his state of the Union message, we must not as a people have too many visions and not enough vision.

I do not believe that increased assistance for our schools, our hospitals, our libraries, our health facilities, our vocational education institutions, our college students is visionary, nor do I believe we lack vision in providing these funds. These programs are among the major ones at the heart of our needs in this Nation.

Furthermore, I do not believe that the funds the President vetoed for these programs were inflationary. Congress cut $7½ billion from the President's own requests for Federal spending this year. This cut was on top of the additional funds for the programs the President vetoed. About $5.6 billion of the cuts were in military spending and $1.2 billion were in foreign aid. I think cuts in unnecessary military spending and in foreign aid can be justified and I voted for them.

I cannot justify cuts in education, and health, and libraries. I do not believe the $1.1 billion increase we tried to provide for education, health, and libraries is inflationary in face of a $7½ billion cut in total spending.

I had a great outpouring of opposition to the veto from New Hampshire. I was deeply impressed with the sincerity of this opposition and the constructive and informative views expressed by these people from throughout the State.

In order that Senators may have a flavor of the broad range of this opposition to the veto, I ask unanimous consent to have printed in the RECORD a list of those who have contacted me.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

Mrs. Neil Atkins, Conant Public Library, Winchester, N.H.

Mr. Donald R. Bourke, Greenville, N.H.

Mr. Victor H. Bowen, Laconia, N.H.

Mr. Norman R. Brown, Administrator, Concord Hospital, Concord, N.H.

Mr. Jason Boynton, Executive Secretary, New Hampshire School Board Association.

Mrs. Edward C. Brummer, Jaffrey, N.H.

Sister May Callista, Administrator, Sacred Heart Hospital, Manchester, N.H.

Mr. Donald E. Chick, City Manager, Dover, N.H.

Hon. Clyde Coolidge, Mayor, Somersworth, N.H.

Mr. James J. Cusick, Ass't. Superintendent of Schools, Portsmouth, N.H.

Mr. William R. Deutsch, Administrator, Morrison Hospital, Whitefield, N.H.

Mr. William P. Doherty, Sunapee, N.H.

Mrs. David T. Eckels, Howe Memorial Library, Hanover, N.H.

Mr. William Elliot, Executive Vice President, Retail Merchants Association of New Hampshire.

Mr. and Mrs. James Falconer, Seabrook, N.H.

Mr. Paul E. Farum, Concord, N.H.

Mr. Robert Finley, Tamworth, N.H.

Major Carl P. Foster, Alice Peck Day Memorial Hospital, Lebanon, N.H.

Mr. Llewelyn Franklin, Joy Manufacturing Co., Claremont, N.H.

Mrs. Sylvia Gray, Plainfield, N.H.

Mr. Paul Guilderson, Department of Resources and Development, Concord, N.H.

Mr. Paul O. Johnson, Superintendent, Salem School District, Salem, N.H.

Mr. Paul Keefe, City Manager, Exeter, N.H.

Mr. Robert E. Kelly, Salem, N.H.

Mrs. Russell M. Kimball, Chamberlain Free Public Library, Greenville, N.H.

Mr. Louis Keroack, New Hampshire Vocational Technical College, Berlin, N.H.

Mr. George Knox, Director, Vocational Technical College, Berlin, N.H.

Hon. John Maglaras, Mayor, City of Dover, N.H.

Rep. Ralph C. Maynard, Portsmouth, N.H.

Mr. Peter V. Millham, Laconia, N.H.

Mr. Andrew J. Moynihan, Executive Director, New Hampshire Advisory Council, Concord, N.H.

Mr. Richard W. Mulcahy, New Hampshire Vocational-Technical College, Claremont, N.H.

Mrs. Kenneth Perry, Winchester, N.H.

Mrs. Irene Peters, Consultant, Department of Education, Concord, N.H.

Mrs. Grant Powers, Center Sandwich, N.H.

Mr. Harvey M. Radey, Jr., Frisbie Memorial Hospital, Rochester, N.H.

Mrs. Ralph Riley, Littleton Public Library, Littleton, N.H.

Mr. Charles W. Roberts, Winnisquam, N.H.

Mrs. Elizabeth W. Sampson, Ingalls Memorial Library, Rindge, N.H.

Mrs. Leslie Seamans, Granfton, N.H.

Mrs. Erwin Shaw, President, New Hampshire Library Association.

Mr. Wallace Smith, Administrator, Lakes Regional Hospital, Laconia, N.H.

Mrs. Robert Sondrol, Amherst, N.H.

Mr. Gordon R. Tate, Department of Education, Concord, N.H.

Mr. J.A.G. Theriault, Alexander Eastman Hospital, Derry, N.H.

Mr. Arthur E. Toll, Administrator, Laconia State School, Laconia, N.H.

Mrs. W. Fred Tuttle, Wolfeboro Brewster Memorial Library, Wolfeboro, N.H.

Mr. Frederick C. Walker, Superintendent, Dover School Department, Dover, N.H.

Mr. John F. Waters, Administrator, Huggins Hospital, Wolfeboro, N.H.

Mr. T. Harrison Whelan, Administrator, Nashua Memorial Hospital, Nahsua, N.H.

Mrs. Elizabeth M. Wight, Amherst, N.H.

Mr. William L. Willson, Administrator, Mary Hitchcock Memorial Hospital, Hanover, N.H.

Mr. Robert K. Wood, Administrator, Elliot Community Hospital, Keene, N.H.

Mrs. Donald Young, Byron G. Merrill Library, Rumney, N.H.

Mrs. William Burdett, Ashuelot, Winchester, N.H.

Mrs. John Colony, Harrisville, N.H.

Mrs. J. Devine, Manchester, N.H.

Mrs. J. Arthur Doucette, Jackson, N.H.

Mr. William C. Greene, Center Sandwich, N.H.

Mr. George R. Hanna, Keene, N.H.

Mrs. Carlton Jones, Meriden, N.H.

Mr. Louis Miller, Manchester, N.H.

Mrs. Douglas Navish, Keene, N.H.

Mrs. Albert Parker, Hollis, N.H.

Mr. Gilbert Pike, Littleton, N.H.

Mr. Robert Rhodes, Walpole, N.H.

Judge John Sheehan, Manchester, N.H.

Mrs. Helen Joiner, Hampton, N.H.

Mr. Joseph G. Sakey, Nashua Public Library, Nashua, N.H.

Mrs. Ruth S. Pratt, Gilford Public Library, Laconia, N.H.

Mr. Robert P. Lambert, 13 Cricket Lane, Concord, N.H.

Mrs. Marjorie G. Hastings, 20 Grafton St., Lisbon, N.H.

Mrs. Joyce Hanrahan, Little Harbour School, Portsmouth, N.H.

Mr. Donald M. Wilson, Center Sandwich, N.H.

Rev. Hollis Hastings, Lisbon, N.H.

Mr. & Mrs. Raymond C. Swain, Chester, N.H.

Mrs. Bess L. Reed, Woodsville, N.H.

Mr. D. L. Reynolds, Londonderry, N.H.

Mr. McINTYRE. Mr. President, these citizens were as concerned as I was over the loss of funds in New Hampshire. This veto means apparently that our schools will lose $763,522, federally affected districts in the State will lose $1,550,000; vocational education institutions will lose $729,904; hospitals will lose $187,336; and our libraries will lose $154,905.

It is clear to me from the comments of those individuals I have identified above that these funds are needed if our schools, our libraries, and our hospitals are to continue to meet the needs of the people of New Hampshire.

I intend to give these comments serious consideration when I examine the proposal which I assume will be forthcoming from the House to replace the bill that was vetoed.

Our country has desperate priority needs. I include among them the needs of our health and education institutions. We must not fail them now.

CARWASH COUNCIL DOING SOMETHING ABOUT POLLUTION

Mr. SYMINGTON. Mr. President, there is no longer any doubt that our usable supply of clean fresh water is declining at an alarming rate. Recent reports indicate that although we are making significant strides in municipal water pollution control, industrial contamination is still increasing, and today our waters are dirtier than ever before.

In this era when some large industries would appear insensitive to the need for pollution control, many smaller businesses are showing their concern. As but one example, spokesmen of the carwash industry recently wrote me that they are developing a positive program to minimize water pollution from carwash installations.

The National Carwash Council, 2330 South Brentwood Boulevard, St. Louis, has sent copies of a publication called "Waste Water Treatment Report and Guidelines" to all its members. This report is designed to assist the owners of carwash installations to do their part in reducing pollution. The publication advises carwash operators of State and Federal regulations governing waste water and encourages installation of equipment which reuses waste water.

If we are to improve our environment, then all businesses, regardless of size, will have to develop positive programs, just as the National Carwash Council is doing. This trade association deserves our commendation.

NOMINATION OF JUDGE G. HARROLD CARSWELL TO THE SUPREME COURT

Mr. GURNEY. Mr. President, President Nixon is fulfilling another promise to the American people—his promise to restore balance to the Supreme Court and to appoint a Justice who will "strictly interpret" the Constitution.

The nomination of Judge G. Harrold Carswell is being acclaimed by people throughout the United States, who recognize and appreciate the President's determination to carry through with this important obligation.

Editorials from newspapers across the Nation attest to the support Judge Carswell is receiving. I ask unanimous consent that a sampling of the editorials be printed in the RECORD.

There being no objection, the editorials were ordered to be printed in the RECORD, as follows:

[From the Akron Beacon Journal, Jan. 21, 1970]

THE SUPREME COURT APPOINTMENT

Our Knight Newspapers colleagues in Tallahassee and Macon give Judge G. Harrold Carswell the highest marks for character and they are in a position to know what kind of man he is, for he was born near Macon and has lived in Tallahassee since 1949.

Chosen by President Nixon to fill the vacancy on the Supreme Court, Carswell has a background of Navy service in World War II, four years of private law practice, five years as U.S. attorney for Northern Florida, 11 years as a federal district judge and slightly less than seven months as a judge of the Fifth Circuit Court of Appeals.

In view of this record, the nominee would appear to be amply qualified as far as experience is concerned.

As to participating in decisions involving companies in which he owned stock—the issue raised against Judge Clement F. Haynsworth Jr.—Carswell has the perfect answer to Senate inquisitors. He doesn't own any stock. Or bonds, either. He does own some real estate, and his wife owns some shares in her father's crate factory, but these holdings are unlikely ever to figure in litigation before the Supreme Court.

Carswell's friends say he fits the President's widely-advertised specifications calling for a "strict constructionist" in interpreting the Constitution. Some Senators may object to the nomination on this score, but they surely will find themselves in the minority in the vote on confirmation unless more relevant grounds for rejection turn up in the meantime.

If our Florida and Georgia conferees aren't being carried away by pride in a hometown boy, Carswell will be a credit to the Supreme Court.

[From the Columbus Dispatch, Jan. 21, 1970]

NOMINEE TO SUPREME COURT

Initial reaction to the nomination of Harrold Carswell to be an associate justice of the United States Supreme Court must be based on only one criterion—he must be fair. No more. No less.

We urged this requirement before President Nixon vainly sought Senate appproval of Clement Haynsworth to fill that still vacant ninth chair of the nation's highest tribunal.

While we expect there will be some opposition—no nominee could possibly satisfy everyone— to Mr. Carswell, there seems little probability he will run into the same buzzsaw that cut down Mr. Haynsworth.

Mr. Nixon has said he believes the Supreme Court should "strictly interpret" the Constitution in all its deliberations. And he has said he agrees with the late Mr. Justice Frankfurter that our Congress should have great leeway in writing our laws and that the Supreme Court should be very conservative in overthrowing a law passed by the elected representatives of the people.

Mr. Carswell has described his own judicial philosophy this way: "A judge is neither pro nor con. I want to approach the law fairly."

We can ask no more.

Simple fairness in interpreting our laws should bring a badly needed balance to our highest court which has been criticized for being legislative rather than judicial.

We do not want a Supreme Court labeled either too conservative or too liberal. We want judges to be fair and honest, who follow no particular social or political philosophy.

We need a high court which will protect the rights of the body politic as a whole.

[From the Orlando Sentinel, Jan. 23, 1970]

CARSWELL'S NOMINATION

Everything we know about Judge G. Harrold Carswell of Tallahassee indicates President Nixon made the right choice in nominating him for the U.S. Supreme Court.

Some nit-picking has begun already about his stand on civil rights issues, but an examination of Carswell's record shows he has followed integration rulings of higher courts. The charge that he is anti-civil rights cannot be justified.

Floridians are proud, not only because Nixon selected one of our number for the highest bench in the land, but because he picked a man with the temperament and judicial ability of Harrold Carswell.

The Fifth Circuit Court of Appeals judge is an outstanding example of an independent jurist who hews to the law and is ruled by it rather than by his own emotions or ideas.

Called a moderate-conservative, Carswell is just that in politics. But trying to pin a label on him where judicial decisions are concerned is impossible.

As one of his friends said, where civil rights cases are involved, he pleases neither black nor white. This indicates his impartiality more than anything which can be said.

Putting Harrold Carswell on the Supreme Court will help give more balance to that body. His nomination should certainly be confirmed by the U.S. Senate.

[From the Cincinnati Enquirer, Jan. 21, 1970]

JUDGE CARSWELL UP

In choosing Judge G. Harrold Carswell of Tallahassee, Fla., to fill an eight-month-old vacancy on the U.S. Supreme Court, President Nixon indicates that he has not retreated from his concept of what a Supreme Court justice should be—or of the niche the court itself should occupy in U.S. political life.

Judge Carswell, who has served since last spring on the U.S. Court of Appeals for the Fifth Circuit, prudently refrains from categorizing himself. But those who have assessed his service on the bench since President Eisenhower named him a Federal district judge a dozen years ago characterize him as one who believes that the Constitution should be applied, insofar as possible, as it is written, not as we might be tempted to wish it had been written.

Judge Carswell becomes, accordingly, the very kind of jurist Mr. Nixon pledged to appoint to the Supreme Court.

"The question," Mr. Nixon declared during the 1968 campaign, "is whether a judge in the Supreme Court should consider it his function to interpret the law or to make the law. Now it is true that every decision to some extent makes law; however, under our Constitution the true responsibility for writing the law is with the Congress. The responsibility for executing the law is with the executive, and the responsibility for interpreting the law resides in the Supreme Court.

"I believe," Mr. Nixon concluded, "in a strict interpretation of the Supreme Court's functions. In essence this means I believe we need a court which looks upon its function as being that of interpretation rather than of breaking through into new areas that are really the prerogative of the Congress of the United States."

There is a substantial body of opinion, of course, that differs with Mr. Nixon's view of the Supreme Court and its role. Many of its spokesmen, we may be certain, will challenge Judge Carswell's projected elevation to the Supreme Court just as they opposed the President's earlier effort to appoint Judge Clement F. Haynsworth Jr. to the court.

But Judge Carswell appears to be devoid of business interests of the sort that became a convenient handle for Judge Haynsworth's opponents.

The fact, moreover, that the Senate saw fit to confirm Judge Carswell last year for elevation to the Fifth Circuit Court of Appeals means that its members cannot, with any consistency, find him suddenly unfit.

We foresee for Judge Carswell a long, useful and constructive career on the nation's highest tribunal.

[From the Milwaukee Sentinel, Jan. 21, 1970]

YEARS ADDED

The most significant difference between President Nixon's new Supreme Court justice nominee and the one who was rejected is age.

Judge G. Harrold Carswell of Tallahassee, Fla., named to fill the seat vacated by Justice Abe Fortas, is 50. Judge Clement F. Haynsworth Jr., whose nomination was rejected by the Senate last year, is 56.

Thus, looking at it from an actuarial standpoint, the replacement of Haynsworth with Carswell represents a probable gain of six more prime years of judicial service and voting on the side of strict constitutional construction.

This is an advantage that the opponents of Haynsworth hardly had in mind when they trumped up their case against him. Nevertheless, the effect of their rejection of Haynsworth may be to give the Supreme Court a half dozen extra years of representation from a justice who appears to be of similar philosophy.

This was, of course, to be expected. Mr. Nixon was bound to look for a like candidate, with the exception that this one would not be vulnerable to specious charges of the appearance of a conflict of interest because of large investment holdings.

Those who are determind to keep the Supreme Court prejudiced toward socialism and the welfare state may try to thwart Mr. Nixon's appointment again. But it appears unlikely that they will be able to muster a majority against the nomination a second time, particularly if nothing in Carswell's record gives renegade Republicans the slightest excuse to vote against him.

At last, it appears, the will of the people, who did vote for change in 1968, including restoration of a better balance on the Supreme Court, stands to be more nearly realized.

[From the Chicago Today, Jan. 21, 1970]

NEW SUPREME COURT CHOICE

Since the Senate's rejection of F. Clement Haynsworth of South Carolina, a new question has to be asked about any Presidential nominee to the Supreme court: Whether he's going to make it. In the case of Judge G. Harrold Carswell of Tallahassee, that can be answered with a great deal of confidence. He'll make it.

Carswell, 50, has been a federal judge since 1958 and a judge of the 5th circuit Court of Appeals since last summer. He appears to meet all the qualifications President Nixon wanted without rubbing any of the senatorial nerves that were so jangled by Haynsworth. The administration apparently checked his background with an electron microscope to make sure of that.

Carswell is known as a "strict constructionist" in interpreting the Constitution. In its best sense, the phrase means a judge who refuses to make the Constitution a vehicle for his own views, and that's the meaning that seems to apply to Carswell. His record in civil rights indicates that he does not try to "use" the Constitution, either for or against the civil rights cause; he has followed Supreme court interpretations without trying to break new ground.

That won't make him popular with liberals, but it makes him just right for Mr. Nixon's strategy of giving the court a more conservative tinge while making the south feel wanted again.

In a refreshing contrast to Haynsworth and former Justice Abe Fortas, Carswell owns no stocks or bonds at all—his holdings seem to consist of his house and some inherited land. So he should have no worries about confirmation on the score of possible "impropriety"—and that's about the only one that counts.

In temperament and philosophy, Carswell appears to fit in admirably with Nixon's first Supreme court nominee, Chief Justice Warren E. Burger. With them on the bench, the "activist" approach of finding new ways to apply the Constitution is in for substantial changes.

THE ALCOHOLISM EPIDEMIC

Mr. HUGHES. Mr. President, it is understandable that Americans have differences of opinion about the conduct of the war in Vietnam. It is incredible that we cannot agree to face realistically the alcoholism epidemic in this country, which costs us more lives each year than Vietnam and untold billions of dollars in economic and social destruction.

If we were willing to spend a tenth of what we spend on Vietnam to save people from dying of a controllable disease and from causing wholesale slaughter on our highways, we could work miracles toward meeting this problem.

An article published in the National Enquirer of February 1, 1970, graphically describes one aspect of the problem of Alcoholism, U.S.A. I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THE AUTOMOBILE AND THE ALCOHOLIC—SURVEYS REVEAL THAT ALCOHOLICS DRIVE ONE MILE OUT OF EVERY 10 DRIVEN AND CAUSE 37 PERCENT OF FATAL ACCIDENTS

One out of every 10 miles driven on the road is driven by an alcoholic. And it is the alcoholic—not the casual social drinker—who frequently gets involved in car crashes causing death, his own and other people's.

These frightening facts, little understood until now, have been brought out in recent studies.

One study was made by Dr. Melvin L. Selzer, a physician and teacher of psychiatry at the University of Michigan Medical School. Another comes from Dr. Julian Waller, also a physician, who was formerly associated with the California Department of Public Health's Division of Alcoholism. Currently he teaches at the University of Vermont College of Medicine.

Dr. Walter said in a recent interview: "Because driving after drinking is common, it has been widely assumed that most highway crashes are the result of social drinking. Laboratory experiments show that some persons begin to be adversely affected by the equivalent of only one drink, say two ounces of 100 proof alcohol.

"But evidence of high alcoholic concentrations shows that most people who have highway incidents after drinking are not mere social drinkers, but problem drinkers.

"In California, we found that almost 75 percent of severe and fatal accidents in which the principals had been drinking involved alcoholics or people with drinking problems.

"In studies we made in cooperation with the California Division of Motor Vehicles and the courts, we estimated that at least 650,000 alcoholic persons drive. This represents 6.5 percent of the state's 10,000,000 drivers. But we found that they actually drove 10.4 percent of the mileage driven in California in a year.

"This means one mile in 10 is driven by an alcoholic.

"I see no reason why our findings cannot be applied across the nation. It can be assumed that alcoholics form quite a considerable proportion of the national driver population and account for a still higher proportion of miles driven."

Dr. Selzer declared, "Contrary to popular belief, most alcoholics avoid solitary drinking and will weave their intoxicated way long distances to enjoy drinking companionship."

Slogans, billboards, and the usual cautions against driving while under the influence of alcohol are useless with these people, he asserted.

"Many alcohol-involved traffic mishaps and violations are incurred by alcoholic persons whose abnormality immunizes them against the usual educational appeals and legal devices intended to curb intoxicated driving."

Asking why such drivers were not stopped before they could harm themselves and others, Dr. Selzer and his investigators learned of almost incredible attitudes:

"The alcoholic fatality drivers in this study often drove in an intoxicated state, a fact known by their families, their friends and, not infrequently, by local police officers.

"In two cases, our interviewers were told by family members that the deceased alcoholic driver had often driven because he was 'too drunk to walk.'

"Families are often fearful of calling the police because a high-speed pursuit may result which increases the likelihood of a serious accident. Two of the alcoholic fatality drivers were killed during such pursuits.

"There is also the unpleasant possibility that no one cared very much—and that consciously or unconsciously, the alcoholic's demise was not unwelcome. Given the hostility that the alcoholic's drunken behavior often engenders, particularly in family members, this possibility cannot be discounted."

Dr. Selzer does not go along with the sometimes-heard theory that alcohol, releasing tensions, allows people to drive better than they would without it.

He noted, "Ethyl alcohol, the essential ingredient in beer, wine and whiskey, is classified pharmacologically as a volatile anesthetic. Two other drugs in this group are ether and chloroform.

"Since alcohol is essentially an anesthetic, even small amounts may impair driving ability and judgment. This is often accompanied by a feeling of well-being and an illusion of increased competence.

"Furthermore, alcohol depresses the higher brain centers, often permitting behavior that would otherwise be suppressed or deferred until better judgment prevailed."

Dr. Selzer took note of the many taverns and bars along the highways, usually reachable only by car.

Then he examined the personality of the problem drinker. He said, "The alcoholic is basically egocentric and self-centered. This egocentricity may have the quality of an absolute conviction of omnipotence and invulnerability.

"One need not elaborate on the menace posed by an intoxicated individual with these characteristics seated behind the wheel of an instrument as potentially lethal as an automobile.

"In addition, many alcoholics are chronically depressed. A sense of loneliness, sadness and futility are often present. The facade of joviality and gaiety which the alcoholic may wear bears no relationship to the depth of the underlying depression.

"A disproportionate number of suicidal gestures and attempts have long been observed in the alcoholic population.

"Psychoanalytic theory regards alcoholism itself as an unconscious form of self-destruction.

"Finally, the alcoholic is said to be chronically hostile.

"Hence we see the alcoholic described as having underlying feelings of omnipotence, invulnerability, chronic rage, depression, and self-destructiveness. To this can be added the effect alcohol has on driving ability and judgment, plus the realization that there are some 5,000,000 alcoholics in the country—and one can appreciate the need to further investigate and rehabilitate the alcohol-addicted driver."

Selzer's major study, reported in Behavioral Science of January 1969, concerned the 96 drivers who were judged by police to be responsible for 96 fatal traffic accidents resulting in 117 deaths, all in Washtenaw County, Mich., from late 1961 to the end of 1964.

Of the drivers, 71 died and 25 survived.

It was established by questioning relatives, friends and survivors that 36 of the drivers were known to be alcoholics.

The study summed up, in Dr. Selzer's words:

"In the present study, 37 percent of the fatal accidents were caused by alcoholics.

"It appears that a relatively small group of drivers accounts for an excessive number of fatal accidents," Dr. Selzer said.

"Since it is unlikely that the alcoholic driver can resolve his emotional or drinking problems unaided, he will remain a traffic menace unless his alcoholism is treated.

"The need for developing effective and enforceable means of detecting and rehabilitating alcoholic drivers is obvious."

Dr. Selzer cited other studies whose results back up his own findings about alcoholic drivers.

He said a study of convicted drunken drivers in Sweden showed that of 1,956 such drivers, 72 percent had a blood alcohol level of 0.15 percent or higher at the time of arrest—or enough to make a difference in reaction time—and 45 percent of them were known alcoholics.

Additionally, 58 percent had committed earlier traffic violations, often serious ones.

An Ontario, Canada, study showed that 98 alcoholics, compared with the general driving population, accounted for 2½ times as many accidents as normal drivers.

The Ontario alcoholics also had nine times as many convictions for drunken driving and six times as many license suspensions.

A BRILLIANT NEW PRESIDENT FOR DARTMOUTH COLLEGE

Mr. McINTYRE. Mr. President, I want to add my voice to the many voices of the educational community, the Dartmouth alumni and student body, the

media, and the general public who are expressing their commendation at the recent announcement that the distinguished mathematician and humanist, Dr. John G. Kemeny, has been named as the 13th president of Dartmouth College.

As a Dartmouth alumnus myself, of course, I have a special interest in Dr. Kemeny's appointment. But his elevation to the presidency of Dartmouth I know has a special national interest because this great New Hampshire institution has rightfully taken its place as one of the Nation's topmost educational institutions.

Dr. Kemeny follows in the footsteps of John Sloan Dickey, who has retired after 25 years as the Dartmouth president. I have spoken many times of the brilliant career which John Sloan Dickey had at Dartmouth. His will not be an easy presidency to follow.

But I am strong in my belief that Dr. Kemeny's brilliance as an educator, his enormous drive and ability which has been demonstrated in his decade and a half as a member of the Dartmouth faculty will bring to the president's chair a competence that will take the Big Green to new heights.

Mr. President, I ask unanimous consent to have printed in the RECORD a newspaper article and an editorial from the Concord, N.H., Monitor which will complement my remarks concerning this great appointment.

There being no objection, the items were ordered to be printed in the RECORD, as follows:

[From the Concord (N.H.) Monitor, Jan. 24, 1970]

HUNGARIAN-BORN PHILOSOPHER NEW PRESIDENT OF DARTMOUTH

BOSTON.—The trustees of Dartmouth College Friday named Dr. John G. Kemeny, 43-year-old, Hungarian-born philosopher and mathematician, as 13th president of the liberal arts school.

Dr. Kemeny was named at a meeting here to succeed John Sloan Dickey who is retiring after 25 years as president. He will take over officially March 1.

The fourth non-alumnus to head Dartmouth since it was founded in 1769, Dr. Kemeny is a Princeton graduate who began his academic career as a research assistant to Dr. Albert Einstein.

He has been chairman of the Dartmouth mathematics department for 12 years and has been a pioneer in developing computer time-sharing as an educational tool.

He has had a key role in shaping the modern curriculum of Dartmouth and for the past two years has been coordinator of educational plans and development.

Dr. Kemeny joined the Dartmouth faculty in 1953 and currently holds the chair established a year ago to encourage innovation in teaching.

Lloyd Brace, chairman of trustees, termed the president-designate "one of the truly creative minds in America today." He said more than 200 persons were considered by trustees before a decision was reached.

Dr. Kemeny indicated he plans to continue to teach one or two courses after becoming president.

He has been chairman of the college's Committee on Equal Opportunity to advise on aiding disadvantaged minorities to attend Dartmouth, and a member of the trustees' ad hoc committee studying the school's programs and priorities, especially the education of women at the now all-male school.

Dr. Dickey commented, "Prof. Kemeny has long since demonstrated his devotion to this college and I make bold to assure him that all sectors of the Dartmouth community will make a response in kind to his leadership."

HUNGARIAN-BORN

Dr. Kemeny was born in Budapest, Hungary, the son of an export-import broker, and was brought to the United States by his family in 1940 to escape the Nazi expansion.

He graduated summa cum laude from Princeton in 1947 after World War II military service in which he, while still in his teens, was mathematician in the theoretical division of the Manhattan atomic bomb project at Los Alamos, N.M.

After winning his doctorate in mathematics in 1949, he joined the Princeton mathematics faculty, specializing in logic, but in 1951 changed to the philosophy department.

He was named to the Dartmouth faculty with the chore of rebuilding its mathematics department, which had been hit by a series of retirements.

DARTMOUTH'S PRESIDENT KEMENY

Dartmouth College has a new president. He is Dr. John G. Kemeny, a mathematician and philosopher who for the past 16 years has been the driving force behind the College's explosive emergence in the fields of mathematics and computers.

Kemeny, 44, will take office March 1, replacing John Sloan Dickey who has served as Dartmouth's 12th president for nearly 25 years. Dr. Dickey announced in September 1968 that he would retire this year.

Thus Dartmouth's trustees reached "in-house" to pick a new leader for the institution which is celebrating its 200th anniversary this year. The trustees considered more than 200 persons for the job.

Kemeny was born in Hungary and came to the United States with his parents in 1940. He is a graduate of Princeton and thus is the fourth non-alumnus to hold the presidency since Dartmouth was founded in 1769.

He is a man of tremendous energy and intellectual capability. While still in his teens, he worked during World War II as a theoretical mathematician on the atomic bomb project at Los Alamos, N.M. In 1948 he was a research assistant to Dr. Albert Einstein at Princeton's Institute for Advanced Study.

Dartmouth's president-to-be has a list of accomplishments and successful projects to his credit as long as your arm—among them the College's computer time-sharing program for secondary schools.

But one that particularly impressed us was that he was a member of the Hanover School Board for three years.

This may seem insignificant in light of Kemeny's massive impact on the national educational community.

But to us, it is promising. For if there is one area in which we could fault our alma mater it is in the College's relationships to the state in which it is situated and the problems that beset New Hampshire.

With some exceptions, Dartmouth, with its priceless intellectual and research resources and heritage of educational excellence, has stood a world apart from the rough-and-tumble of New Hampshire's public affairs.

Its former dean, Thaddeus Seymour, was active in politics. One of its government professors, Laurence Radway, is a member of the state legislature. Some of its faculty served on the Task Force. But as an institution, Dartmouth has been isolated from New Hampshire.

We hope that will change in coming years. An institution of Dartmouth's character, quality and tradition has much to contribute to New Hampshire.

And we think a man of Dr. Kemeny's intensity and wide interest range could be a leader toward this end. He has proved himself extraordinarily capable in comprehending not only the complexity of theoretical, mathematical and social problems, but the practical aspect as well.

He has shown this not only by his development of the secondary school time-sharing program on Dartmouth's computers, but by his inspiring chairmanship of the College's Committee on Equal Opportunity, which developed the summertime ABC program for minorities.

We applaud the selection of Dr. Kemeny as Dartmouth's 13th president.

WHO FIXES OIL PRICES?

Mr. PROXMIRE. Mr. President, within the next few weeks, President Nixon will decide on the future course of U.S. oil policy. He will act upon the recommendations of the Cabinet Task Force on Oil Import Control, chaired by Secretary of Labor George Shultz, which has conducted an intensive study of the U.S. oil industry and the oil import control program. The majority of the task force recommends, as I understand it, replacement of the current quota system with a new tariff system. The minority, consisting of Secretary of Commerce Stans and Secretary of the Interior Hickel is reported to favor retention of the present quota system.

Mr. President, assuming an oil import control system is necessary for our national security—the only justification for such a program, my only concern is that the system we adopt is the most efficient available. This means the system must protect our national security at the least cost, with the least anticompetitive effect and with the most benefit to the consumers.

In order to ascertain the efficiency of any oil import control we must look through the confusion of charges and counter-charges and focus on some of the realities of oil imports. We have heard a lot of loose talk about the proposed tariff system. The most basic charge of the opponents of the tariff system is that it is "price fixing" and that the tariff system somehow introduces a new element, "Government control of prices."

The opponents of changing the oil import control program overlook the fact that the present program also fixes prices; the difference being that, under the present program, prices are fixed in Texas and Louisiana, while under the tariff system, prices would be fixed in Washington where consumers have at least a chance of influencing the price level.

I do not know how well acquainted the opponents of the tariff system are with basic economics but controlling the quantity of imports of a product through quotas affects and "controls" the price of that product just as controlling the tariff level of imports of a product also affects and controls prices. It is called the law of supply and demand. In fact, if the oil spokesmen would read some of their past statements, they would see that they have argued for quota controls on the grounds that the price of crude oil needs to be kept at a high enough level

to encourage domestic exploration and production. I know of no more direct, bald admission that quotas affect and control prices.

Let us cut through the fog to see what the oil industry is really saying. The real reason they oppose the tariff system is not because it involves fixing of prices, but because it may involve fixing of prices at a lower level, and might prevent them from raising prices whenever they want. The quota system, of course, involves price fixing, but they like that because it fixes prices at a higher level and allows them to increase those prices whenever they want.

The market demand prorationing systems in States such as Texas and Louisiana also fix prices but they are for that because it involves fixing prices at a higher level than if the free market were allowed to operate.

So the reality is this: The quota system controls prices, but keeps them at a high level, a level the oil industry likes, and makes price rises possible; therefore, they defend the quota system as essential to national security. A tariff system will also fix prices, but may bring about some reduction in those prices, so they attack that system as an attempt at price fixing by the Federal Government. They have had price fixing all along. They know it. The only question is whether the price will be fixed merely to benefit the oil industry or to benefit the entire Nation which includes consumers and taxpayers.

The present control system, along with all the other benefits the oil industry has had been able to get, represents a massive intervention in the market system, and the oil industry knows this too; they are the ones who thought it up and they are the ones who benefit from it at the expense of the rest of us.

All that we in the consumer States ask is that the industry be as honest about its motives as we are honest about ours. Their motives are prices and profits; they want to make more money. Our aim, of course, is to restore competition and get the lower prices that result from competition. Naturally we want to pay less money and, just as naturally, they want to charge us more money.

What is really wrong about the whole system is that one industry has become so powerful that they were able to get the Federal Government to intervene in the marketplace on their behalf at the expense of the consumers who lack the organized power of the oil industry. Government intervention thus acts to destroy competition, and makes it impossible to seek a balance between our desire for lower prices and the industry's desire for higher prices. The Government, for the past 10 years, has simply fixed prices at a high level and allowed them to go higher with little regard for their inflationary impact.

Mr. President, that is why we are seeking changes in the oil import program that will redress the balance. We do not wish any ill to the oil industry, but they have certainly not attempted to meet the legitimate needs of the consumers. Therefore, in assessing national security needs, we must ask that the Federal Government's control system be changed to benefit all the people and not force one section to bear a disproportionate burden of the cost.

Further, we ask to hear some plain talk on the part of the oil industry. We would like to hear some consistent talk. If they are against price fixing then they should be against a tariff system and quota control system and the State prorationing systems tied to market demand.

If they are for free enterprise and a free market, then they should be against any form of import controls. In particular, they should be against the present quota system which, as the Justice Department pointed out, is destructive of competition. For example, the present system limits imports of finished products to those who happened to be importers in 1957.

National security would be far better served by a program designed to protect our national security needs for oil directly rather than relying upon the indirect fallout of a scheme to maintain high domestic oil prices.

I am confident that President Nixon will recognize these facts. I am sure he will realize that the real question is not price fixing or Government control, because these result from quotas or tariffs; rather he will recognize that the real question is the impact of any system on prices, inflation, and competition.

THE COUNCIL ON ENVIRONMENTAL QUALITY

Mr. GRIFFIN. Mr. President, yesterday President Richard M. Nixon took an important and far-reaching step in the fight to restore high quality to our environment. He selected three outstanding men to serve as his Council on Environmental Quality.

The men selected by the President for this tremendously important assignment have had long experience in the area of conservation, resource management and development. They will bring to the job a balanced approach, dedication and deep concern. They are men who know the problem—both in its broadest outlines and in its specifics.

Russell Train, as Chairman, brings to the job a lifetime of work in the area of preserving our natural resources and in trying to get man to live more in harmony with nature. He has an outstanding record as Under Secretary of the Interior where his greatest concern has been the proper management of our resources.

Robert Cahn's qualifications as an expert on the problem of environment quality cannot be challenged. His great service to the Nation through articles he has written was recognized by the award of the Pulitzer Prize for journalism. The series which appeared in the Christian Science Monitor was an outstanding piece of work.

Dr. Gordon J. F. MacDonald, as vice chancellor for research and graduate studies at the University of California at Santa Barbara has demonstrated his outstanding ability at organizing and directing numbers of high-caliber research groups. He brings that administrative ability in the research area to his new post. It will take a great deal of intense research to develop the kind of program we need to solve our environmental problems without at the same time creating new problems for the future.

The President is to be commended on the fine men he has chosen to act as his chief advisers in the battle to reclaim our Nation so as to pass it along to the next generation in better shape than it was when we inherited it.

SMOKING ON AIRCRAFT—IV

Mr. HATFIELD. Mr. President, on Wednesday, I applauded the decision by Pan Am to offer separate areas on airplanes for smokers and nonsmokers. An article written by Al Karr and published in the Wall Street Journal of January 29 discusses the entire problem of smoking in public areas. I ask unanimous consent that, at the conclusion of my remarks, the article be printed in the RECORD. I had not realized that my friend, Chief Justice Warren Burger, was an ally in fighting for the rights of the nonsmoking aircraft passengers.

With the current universal concern about pollution, it is ironic that although a person may be 20,000 feet up in a plane, he is as subject to smoke pollution as if he were sitting in any traditional smoke-filled room.

I ask unanimous consent that a companion article published in the Wall Street Journal, in which Mr. Steve Allen discusses the plight of entertainers, be printed in the RECORD.

I think this all points to the need for legislation, so that the rights of nonsmokers are protected. My bill, S. 3255, would accomplish this. I hope for prompt action on it.

There being no objection, the articles were orderd to be printed in the RECORD, as follows:

PRESSURE BUILDS TO CURB SMOKERS IN AIRLINERS, OTHER PUBLIC PLACES—BANS OR SEPARATE SECTIONS SOUGHT—ALLERGY VICTIMS COMPLAIN OF HEALTH PERIL—ANGRY SMOKER FIGHTS BACK

(By Albert R. Karr)

WASHINGTON.—Warren E. Burger regards tobacco smoke in close quarters as "intolerable," yet on a flight from Washington to Minneapolis-St. Paul he counted 37 fellow passengers puffing away. "The stewardesses were as red-eyed as I was," he said later.

So Mr. Burger got off the smoke-filled plane at Madison, Wis., and stayed overnight completing his flight the next day. Then he fired off a complaining letter to the president of the offending airline—and "was not even accorded the courtesy of an answer." Ever since, he says, he and his family have made a point of avoiding that airline, and they figure their little boycott has deprived the carrier of more than $3,500 in fares in the past five years.

Mr. Burger recounted this story (never naming the airline) in a recent letter to the head of the Federal Aviation Administration suggesting Government curbs on smoking aboard airplanes. Mr. Burger made a point of asking to be treated just like any other traveler, but because he is the Chief Justice of the United States he received a personal reply from FAA Administrator John H. Shaffer.

"Responsive action" by the Government is being taken, Mr. Shaffer promised, revealing that he has asked airline presidents to try to restrict smoking on their planes.

A NEW FRONT

Unlike the Chief Justice, many nonsmokers have long suffered without complaining while others around them puffed in public. But more voices are being raised these days as a broad new front is opened in the war against tobacco.

Smoking in public, especially in confined places, is being attacked as irritating to nonsmokers and injurious to their health. It is also being criticized as a fire hazard and as a risk in unexpected ways—it's said, for example, that smoke can gum up the controls of an airplane.

Consumer crusader Ralph Nader asks Federal agencies to forbid smoking on airliners and intercity buses, where cigarets and pipes generally are permitted now. Smoking foe John Banzhaf, whose "equal time" campaign led to the antismoking commercials now carried on radio and television, isn't for an outright ban in planes and buses, but he wants the Government to order smokers there to be physically segregated. Both intend to carry their cause to court if the Government doesn't act fast.

For the future, Mr. Nader envisions asking state authorities to ban or limit smoking in waiting rooms at hospitals and railroad and bus stations. He also suggests a rule prohibiting smoking in taxicabs here in Washington if either the driver or passenger objects.

BILLS INTRODUCED

Mr. Banzhaf, an associate professor of law at George Washington University, promises to push for curbs on smoking in restaurants, meeting rooms and elevators, plus enforcement of oft-violated no-smoking rules in some sections of passenger trains. One possible tactic: Lawsuits on behalf of persons claiming their privacy or health is affected by tobacco smoke.

Some lawmakers are waging antismoking campaigns of their own. Legislation to restrict smoking aboard public transportation has been introduced in Congress by Sen. Mark Hatfield, Oregon Republican, and Rep. Andrew Jacobs, Indiana Democrat. Similar proposals are pending in the legislatures of at least two states, Illinois and Indiana. New York State Sen. Edward Speno likewise intends to seek legislation curbing smoking on buses and trains and in places of public assembly.

"People are becoming aware of their right to have clean air to breathe, uncontaminated by clouds of tobacco smoke," Sen. Speno says.

Since nonsmoker Richard Nixon's first Presidential press conference, smoking has been banned at those traditionally smoky White House sessions. A merchant seaman recently wrote his union magazine insisting that something be done to protect nonsmokers from smokers in cramped ship quarters. A Maryland supermarket shopper says that when she couldn't avoid the smoke from an employe's cigar at the produce counter, "I felt like shouting obscenities at him." The District of Columbia Medical Society wants hospitals here to segregate patients who smoke.

When the American Medical Association's AMA News published a complaint from a Spokane doctor about smoking aboard an airliner, it evoked an unprecedented reader reaction. Of the 34 responses from the doctors that the periodical later printed, 33 bitterly criticized smoking on planes. Dr. David Warden Jr. of Kaysville, Utah, described two 13-hour flights between Hawaii and Vietnam, where he was an Army medic; to ward off the tobacco smoke, he said, he wore a gas mask.

The complaints aren't being entirely ignored. The Federal Aviation Administration and the Public Health Service have begun a one-year study of the effects of tobacco smoke on airplane passengers. First step: An analysis the other day of the smoke clouds in a military plane carrying 165 passengers—armed forces personnel, dependents and Government officials—from Travis Air Force Base in California to Tokyo. Also, the FAA promises to start proceedings soon that might lead to a smoking ban or smoker segregation on commercial flights; the conclusion is six months or more away.

Several airlines are considering steps to mollify nonsmokers. Pan American World Airways says it soon will set aside no-smoking sections in economy class aboard the spacious Boeing 747s it is starting to put in service. American Airlines says it may take a similar step when its 747 service starts March 2. Some other lines figure they may do likewise.

But one airline spokesman sees a marketing dilemma: Whether it's wiser to continue catering to the smoking passenger or risk offending him by bending to the nonsmoker's increasing complaints. (Under pressure from tobacco foes, the airlines a year ago made one move in the latter direction; they quit handing out free packs of cigarettes to passengers.) Some people who won't fly say their main reason is the smoke in the passenger cabin.

The smoker, for his part, is easily offended. Seeking solace from advice-giver Ann Landers, a heavy smoker wrote of his infuriation when, upon inquiring of his airline seatmate whether she would mind if he lit up, she said yes. He asked the woman to find another seat, because, he told Miss Landers, "I felt she was interfering with my rights." Miss Landers said he was wrong.

Railroads are outdistancing airlines in demonstrating concern for the nonsmoker, among the relative handful of passengers they still carry. A Penn Central survey found that 77.6% of its New York commuters preferred no-smoking cars; accordingly, two months ago the Harlem & Hudson division increased the ratio of no-smokers to smokers, making it three cars to one instead of two to one. Penn Central hands out a brochure chiding "the minority of daily riders who gain gratification from smoking in nonsmoking cars much to the annoyance of their nonsmoking brethren."

To the nonsmoker, tobacco fumes can be more than a mere annoyance. Foes of smoking point to an Italian medical team's conclusion that the amount of cancer-suspect tar and nicotine is greater in a cigaret's uninhaled smoke than in the smoke inhaled. The cited reason: Although the tar-nicotine concentration is denser in the inhaled smoke, a typical cigaret is inhaled for a scant 24 seconds altogether, while its total burning time is 12 minutes. A survey of families in Denver and Detroit indicated a direct link between parents' smoking and children's respiratory diseases.

Allergy sufferers recount horror stories about tobacco. A New Haven man tells of two "narrow escapes" from death by shock and throat closure on no-smoking cars of the New Haven Railroad; he carries cortisone and other medicine to combat such smoke-allergy attacks. Henrietta Walker of Clinton, Md., complains of fatigue and other ill effects from tobacco smoke and says that she once required a week to recover from a cross-country flight. Ashton B. Collins Jr., of Greenwich, Conn., describes "eyes reddened and watering and nasal and sinus passages painfully inflamed as a result of exposure to tobacco smoke from where there is absolutely no escape."

Proclaims tobacco foe Banzhaf: "If you convince people that somebody is inflicting a health hazard on them, they'll get mad and try to do something about it."

Mr. Banzhaf is organizing Citizens to Restrict Airline Smoking Hazards (CRASH for short) and Ralph Nader cites airplane accidents for which smoking may have been to blame. Eighty-two persons died when a Piedmont Aviation airliner collided in midair with a private plane that had wandered out of its proper flight path; Federal investigators said there was evidence that the Piedmont crew had been distracted by an ashtray fire in the cockpit, and, in their report, the investigators wondered if the collision might have been avoided if the airliner crew had seen the other craft sooner.

The crash of a United Air Lines Viscount, killing 39, may have resulted from a fuselage fire fueled by lighter fluid. A cabin fire in a Trans World Airlines 707 apparently was caused by a cigaret butt (the plane was on ground and the passengers escaped).

Other critics say there is evidence that substances in cigaret smoke collect with lint to form a layer on airplane ventilation ducts and on some controls, affecting the plane's operation. The FAA acknowledged the collection process but says it can't confirm a safety hazard. However, a major aircraft maker, in a letter to Sen. Hatfield, says its big new jets will have electronic pressure controls instead of pneumatic controls, "which experience has shown are adversely affected by tobacco tar."

CIGAR-SMOKING IN A PLANE MAKES STEVE ALLEN FUME

WASHINGTON.—Though many public places already proclaim prohibitions on smoking, enforcement is a sometime thing.

Entertainer Steve Allen was just starting to munch an airliner snack when the man in the seat ahead lit up a pungent cigar. Hoping to have it put out, Mr. Allen asked the stewardess if cigar-smoking was allowed on the plane.

"Actually it isn't, Mr. Allen," she replied, "but if you want to smoke a cigar, go right ahead."

Once Mr. Allen had made his wishes perfectly clear, the stewardess had the man douse the stogie. "Outside of genocide," Mr. Allen declares, "the worst thing a person can do is light up a cigar when someone else is eating."

He says cigar-smoke is a particular bother because he's allergic to it. He also says he is allergic to dogs, adding: "If I ever meet a dog smoking a cigar, I'm in real trouble."

RELIEF SUPPLIES FOR BIAFRA

Mr. HARRIS. Mr. President, it has been reported from Biafra this morning that once again obstacles are being placed in the way of the International Committee of the Red Cross in its efforts to expedite the flow of relief supplies into the Ibo areas of the country which were so devastated in the recent civil war. It has been announced that the committee is unable to continue its airlift from Cotonou, Dahomey, with aircraft provided by the United States pending an agreement with the Nigerian Government.

While all of us who have been concerned with the Biafran situation are sympathetic to the problems of rebuilding the country and the difficulties of reaching all of those who are in need of immediate help, such delays and obstructions are intolerable. It is especially unfortunate when stubborn pride precludes the acceptance by the Nigerian Government of the use of supplies and facilities which were assembled for use in the Biafran airlift, when these are closest to the location of the most pressing needs. The failure to allow use of the Uli airstrip for relief flights, and the blockage of supplies which are collected at Port Harcourt and at São Tomé are causes for great concern.

It is clear, now that the war is over, that the Nigerian Federal Government is the only agent which can ultimately insure that all those who suffered on both sides are adequately cared for, and that with the proper action now the future of that nation will be brighter than its past.

I call upon General Gowon to expedite delivery of relief supplies, from whatever source, to those who need it most using all available channels and facilities. No nation can stand alone, and the benefits of a more favorable attitude toward the Nigerian Government and an improved public image which these steps would insure would be great. All concerned must approach the problem of binding up and rebuilding the country in a dispassionate and responsible fashion.

AIRPORT AND AIRWAYS DEVELOPMENT

Mr. COOK. Mr. President, in December the Committee on Commerce reported S. 3108, the Airport and Airways Development Act of 1969. The House passed a similar measure, H.R. 14465. This legislation represents a major effort on the part of the Federal Government to keep pace with the tremendous growth of aviation. Both the proposal for a trust fund, and the large sums authorized demonstrate an awareness of the future demands on our airport facilities.

However, at the same time that we were applying the trust fund concept in this field, the industry has been manufacturing and designing a new generation of jumbo and supersonic jets which will certainly render obsolete many existing airports. The cost of expanding airfields and developing new ones is well beyond the economic ability of a majority of our State and local governments. As long as the Federal Government continues to tax most sources of revenue, the proposed 50–50 Federal-State matching formula is insufficient to meet these future needs. In my own State, the local tax resources will not be adequate to take advantage of this Federal program.

In view of this very serious situation, I would urge the Senate to consider alternate methods of financing this program. A possible solution would be an increase of the Federal share of the matching funds. The 90–10 matching formula of the highway trust fund is a classic example of a full commitment by the Federal Government. Our dangerously overcrowded airports deserve no less a commitment.

An alternative to increased Federal participation would be permissive language allowing the State or local taxing authority to assess a "boarding charge" on each passenger originating from within that State. Montana, New Hampshire, New Jersey, and Evansville, Ind., now levy such a tax. However, all of these laws have been appealed to the courts. The Montana Supreme Court recently declared a $1 "user charge" unconstitutional as a burden on interstate commerce and a violation of the equal protection clause of the U.S. Constitution. However, a State supreme court is not the final arbiter in matters affecting interstate commerce.

Therefore, while neither of the foregoing suggestions may be the final solution, Congress has a responsibility to explore all avenues of possible relief for our already overburdened State and local governments.

EDUCATION FOR ALL—II

Mr. PROXMIRE. Mr. President, the General Conference of UNESCO adopted the Convention Against Discrimination in Education at its 1960 meeting. In broad terms, the convention defines discrimination as: depriving any person or group of access to education of any kind at any level; limiting a person or group to an inferior standard or inflicting educational conditions incompatible with human dignity because of race, religion, sex, national origin, or political beliefs.

The convention prohibits separate educational institutions except in specific circumstances for reasons of sex, religion, or language. Private educational institutions are fully accepted provided participation is optional, they conform to minimum standards, and they are not designed to secure the exclusion of any group.

The convention further provides equal access to education for alien residents as well as nationals.

I ask unanimous consent that the text of the Convention Against Discrimination in Education be printed in the RECORD.

There being no objection, the convention was ordered to be printed in the RECORD, as follows:

I. CONVENTION AGAINST DISCRIMINATION IN EDUCATION [1]

The General Conference of the United Nations Educational, Scientific and Cultural Organization, meeting in Paris from 14 November to 15 December 1960, at its eleventh session,

Recalling that the Universal Declaration of Human Rights asserts the principle of non-discrimination and proclaims that every person has the right to education,

Considering that discrimination in education is a violation of rights enunciated in that Declaration,

Considering that, under the terms of its Constitution, the United Nations Educational, Scientific and Cultural Organization has the purpose of instituting collaboration among the nations with a view to furthering for all universal respect for human rights and equality of educational opportunity,

Recognizing that, consequently, the United Nations Educational, Scientific and Cultural Organization, while respecting the diversity of national educational systems, has the duty not only to prescribe any form of discrimination in education but also to promote equality of opportunity and treatment for all in education,

Having before it proposals concerning the different aspects of discrimination in education, constituting item 17.1.4 of the agenda of the session,

Having decided at its tenth session that this question should be made the subject of an international convention as well as of recommendations to Member States,

Adopts this convention on the fourteenth day of December 1960.

[1] As adopted at the thirtieth UNESCO plenary meeting, 14 December 1960.

ARTICLE 1

1. For the purposes of this Convention, the term "discrimination" includes any distinction, exclusion, limitation or preference which, being based on race, colour, sex, language, religion, political or other opinion, national or social origin, economic condition or birth, has the purpose or effect of nullifying or impairing equality of treatment in education and in particular:

a. Depriving any person or group of persons of access to education of any type or at any level;

b. Of limiting any person or group of persons to education of an inferior standard;

c. Subject to the provisions of Article 2 of this Convention, of establishing or maintaining separate educational systems or institutions for persons or groups of persons; or

d. Of inflicting on any person or group of persons conditions which are incompatible with the dignity of man.

2. For the purposes of this Convention, the term "education" refers to all types and levels of education, and includes access to education, the standard and quality of education, and the conditions under which it is given.

ARTICLE 2

When permitted in a State, the following situations shall not be deemed to constitute discrimination, within the meaning of Article I of this Convention:

a. The establishment or maintenance of separate educational systems or institutions for pupils of the two sexes, if these systems or institutions offer equivalent access to education, provide a teaching staff with qualifications of the same standard as well as school premises and equipment of the same quality, and afford the opportunity to take the same or equivalent courses of study;

b. The establishment or maintenance, for religious or linguistic reasons, of separate educational systems or institutions offering an education which is in keeping with the wishes of the pupil's parents or legal guardians, if participation in such systems or attendance at such institutions is optional and if the education provided conforms to such standards as may be laid down or approved by the competent authorities, in particular for education of the same level;

c. The establishment or maintenance of private educational institutions, if the object of the institutions is not to secure the exclusion of any group but to provide educational facilities in addition to those provided by the public authorities, if the institutions are conducted in accordance with that object, and if the education provided conforms with such standards as may be laid down or approved by the competent authorities, in particular for education of the same level.

ARTICLE 3

In order to eliminate and prevent discrimination within the meaning of this Convention, the States Parties thereto undertake:

a. To abrogate any statutory provisions and any administrative instructions and to discontinue any administrative practices which involve discrimination in education.

b. To ensure, by legislation where necessary, that there is no discrimination in the admission of pupils to educational institutions;

c. Not to allow any differences of treatment by the public authorities between nationals, except on the basis of merit or need, in the matter of school fees and the grant of scholarships or other forms of assistance to pupils and necessary permits and facilities for the pursuit of studies in foreign countries;

d. Not to allow, in any form of assistance granted by the public authorities to educational institutions, any restrictions or pref-

erence based solely on the ground that pupils belong to a particular group;

e. To give foreign nationals resident within their territory the same access to education as that given to their own nationals.

ARTICLE 4

The States Parties to this Convention undertake furthermore to formulate, develop and apply a national policy which, by methods appropriate to the circumstances and to national usage, will tend to promote equality of opportunity and of treatment in the matter of education and in particular:

a. To make primary education free and compulsory; make secondary education in its different forms generally available and accessible to all; make higher education equally accessible to all on the basis of individual capacity; assure compliance by all with the obligation to attend school prescribed by law;

b. To ensure that the standards of education are equivalent in all public educational institutions of the same level, and that the conditions relating to the equality of the education provided are also equivalent;

c. To encourage and intensify by appropriate methods the education of persons who have not received any primary education or who have not completed the entire primary education course and the continuation of their education on the basis of individual capacity;

d. To provide training for the teaching profession without discrimination.

ARTICLE 5

1. The States Parties to this Convention agree that:

a. Education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms; it shall promote understanding, tolerance and friendship among all nations, racial or religious groups, and shall further the activities of the United Nations for the maintenance of peace;

b. It is essential to respect the liberty of parents and, where applicable, of legal guardians, firstly to choose for their children institutions other than those maintained by the public authorities but conforming to such minimum educational standards as may be laid down or approved by the competent authorities and, secondly, to ensure in a manner consistent with the procedures followed in the State for the application of its legislation, the religious and moral education of the children in conformity with their own convictions; and no person or group of persons should be compelled to receive religious instruction inconsistent with his or their convictions;

c. It is essential to recognize the right of members of national minorities to carry on their own educational activities, including the maintenance of schools and, depending on the educational policy of each State, the use or the teaching of their own language, provided however:

(i) That this right is not exercised in a manner which prevents the members of these minorities from understanding the culture and language of the community as a whole and from participating in its activities, or which prejudices national sovereignty;

(ii) That the standard of education is not lower than the general standard laid down or approved by the competent authorities; and

(iii) That attendance at such schools is optional.

2. The States Parties to this Convention undertake to take all necessary measures to ensure the application of the principles enunciated in paragraph 1 of this Article.

ARTICLE 6

In the application of this Convention, the States Parties to it undertake to pay the greatest attention to any recommendations hereafter adopted by the General Conference of the United Nations Educational, Scientific and Cultural Organization defining the measures to be taken against the different forms of discrimination in education and for the purpose of ensuring equality of opportunity and treatment in education.

ARTICLE 7

The States Parties to this Convention shall in their periodic reports submitted to the General Conference of the United Nations Educational, Scientific and Cultural Organization on dates and in a manner to be determined by it, give information on the legislative and administrative provisions which they have adopted and other action which they have taken for the application of this Convention, including that taken for the formulation and the development of the national policy defined in Article 4 as well as the results achieved and the obstacles encountered in the application of that policy.

ARTICLE 8

Any dispute which may arise between any two or more States Parties to this Convention concerning the interpretation or application of this Convention, which is not settled by negotiation shall at the request of the parties to the dispute be referred, failing other means of settling the dispute, to the International Court of Justice for decision.

ARTICLE 9

Reservations to this Convention shall not be permitted.

ARTICLE 10

This Convention shall not have the effect of diminishing the rights which individuals or groups may enjoy by virtue of agreements concluded between two or more States, where such rights are not contrary to the letter or spirit of this Convention.

ARTICLE 11

This Convention is drawn up in English, French, Russian and Spanish, the four texts being equally authoritative.

ARTICLE 12

1. This Convention shall be subject to ratification or acceptance by States Members of the United Nations Educational, Scientific and Cultural Organization in accordance with their respective constitutional procedures.

2. The instruments of ratification or acceptance shall be deposited with the Director-General of the United Nations Educational, Scientific and Cultural Organization.

ARTICLE 13

1. This Convention shall be open to accession by all States not Members of the United Nations Educational, Scientific and Cultural Organization which are invited to do so by the Executive Board of the Organization.

2. Accession shall be affected by the deposit of an instrument of accession with the Director-General of the United Nations Educational, Scientific and Cultural Organization.

ARTICLE 14

This Convention shall enter into force three months after the date of the deposit of the third instrument of ratification, acceptance or accession, but only with respect to those States which have deposited their respective instruments on or before that date. It shall enter into force with respect to any other State three months after the deposit of its instrument of ratification, acceptance or accession.

ARTICLE 15

The States Parties to this Convention recognize that the Convention is applicable not only to their metropolitan territory but also to all non-self-governing, trust, colonial and other territories for the international relations of which they are responsible; they undertake to consult, if necessary, the governments or other competent authorities of these territories on or before ratification, acceptance or accession with a view to securing the application of the Convention to those territories, and to notify the Director-General of the United Nations Educational, Scientific and Cultural Organization of the territories to which it is accordingly applied, the notification to take effect three months after the date of its receipt.

ARTICLE 16

1. Each State Party to this Convention may denounce the Convention on its own behalf or on behalf of any territory for whose international relations it is responsible.

2. The denunciation shall be notified by an instrument in writing, deposited with the Director-General of the United Nations Educational, Scientific and Cultural Organization.

3. The denunciation shall take effect twelve months after the receipt of the instrument of denunciation.

ARTICLE 17

The Director-General of the United Nations Educational, Scientific and Cultural Organization shall inform the States Members of the Organization, the States not members of the Organization which are referred to in Article 13, as well as the United Nations, of the deposit of all the instruments of ratification, acceptance and accession provided for in Articles 12 and 13, and of the notifications and denunciations provided for in Articles 15 and 16 respectively.

ARTICLE 18

1. This Convention may be revised by the General Conference of the United Nations Educational, Scientific and Cultural Organization. Any such revision shall, however, bind only the States which shall become Parties to the revising convention.

2. If the General Conference should adopt a new convention revising this Convention in whole or in part, then, unless the new convention otherwise provides, this Convention shall cease to be open to ratification, acceptance or accession as from the date on which the new revising convention enters into force.

ARTICLE 19

In conformity with Article 102 of the Charter of the United Nations, this Convention shall be registered with the Secretariat of the United Nations at the request of the Director-General of the United Nations Educational, Scientific and Cultural Organization.

Done in Paris, this fifteenth day of December 1960, in two authentic copies bearing the signatures of the President of the eleventh session of the General Conference and of the Director-General of the United Nations Educational, Scientific and Cultural Organization, which shall be deposited in the archives of the United Nations Educational, Scientific and Cultural Organization, and certified true copies of which shall be delivered to all the States referred to in Articles 12 and 13 as well as to the United Nations.

DEVASTATING EFFECT OF RISING TAXES AND INFLATION

Mr. HATFIELD. Mr. President, an article written by Oregonian reporter Gerry Pratt is illustrative of a problem which greatly concerns me; that is, the devastating effect rising taxes and inflation are having upon our older citizens, especially those living on the meager social security allotments.

We must do something to ease the property tax burden of these people now.

I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

FIXED INCOME ROUGH FOR ELDERLY WIDOW

(By Gerry Pratt)

This is about Alice Roney. Alice Roney is 73 years old and she lives in a house in Scappoose. I don't have any picture of Alice, just a letter and it's about housing.

Housing is important now. George Romney is worrying about how we can build 2 million new units a year to keep abreast of the current housing demand. And Fortune Magazine just came along and reported:

"A housing crisis is building up in the United States. The shortage of acceptable shelter that has long been afflicting the poor and the black is spreading to the white middle class and even to affluent families."

And costs are going through the roof. "Families with incomes of around $8,000 are being left high and dry because in most parts of the country houses at $15,000 or less are no longer being built. In many areas houses costing $30,000 and more are hard to find," the magazine reports.

And here in Portland Pierre Rinfret who once advised President Nixon on the economy before he was President Nixon, says that the best investment you have my friend is your house. Keep it in good repair because the cost of repair, too, is going through the roof and the price of another one is out of sight.

So here is Alice L. Roney, a crippled widow with a crisis of her home.

LIVED TOO LONG

"I am one of the far too many people who have lived too long through no fault of my own," says the widow Roney. But living as long as she has, she remembers the promises of the "Soaring Sixties" and thinks a lot, too, about the low income housing that seems to be in such great shortage.

"Each time I read or hear the words, 'low income housing,' I do a mental flip," she says. "We are rushing like all get out to build cheaply for the old and the poor, creating the slum areas for the next decades, the like of which it is difficult to imagine."

But in all this talk of helping the "old" and the "poor," she says, we have lost sight of the "poor old owners of old homes." That is the widow Roney, or as she puts it, "the guy down the street."

When the widow lost her husband and then found herself crippled and in a wheel chair, she began making over the little house in Scappoose so it would be a refuge and a base for her to work.

1—The roof leaked. "So I put on a new roof that will last as long as I will." 2—She put in a concrete walk from the garage. "So I can wheel supplies in from the car." 3—She installed grab bars and an elevated toilet and bathroom aides so she could handle things herself. 4—She put in an oil furnace so that she wouldn't have to stoke the wood heater. 5—She had wooden awnings built. "So that I wouldn't have to repair and replace the canvas ones." 6—She had the garden kept free from brambles and junk.

It's still not much of a house.

TAX BILL DOUBLED

"But it's clean, neat, a home," she says of the place now. "And it has increased the value until I will never make it next year. The new appraisal will double my tax bill. You would never believe the evaluation the appraiser found to tax onto my tax bill. Now it is beyond me."

Widow Roney says that while we are raising money to build the so-called low cost housing, we are taxing the oldsters out of their homes, homes they already own and hope to keep in decent repair for their own lifetimes.

"Do I put pans under the leaks if I cannot afford to pay more taxes? I have put more money into repairing the torn canvas awnings than my wooden ones cost. Why does that raise my taxes? Am I supposed to let the home go to pot in order to keep my taxes down? Is that what the legislators expect me to do? Or suffer the consequences?"

The widow's income is her social security and "the little I earn in my home, sitting in my chair. What do I do now?"

The alternatives, she suggest, are putting her out of her home for nonpayment of taxes. "That would literally destroy me. Next step? Welfare—another burden on the badly bent welfare funds. How much would it cost the county to care for me in a senile condition? How much would tax relief amount to?"

She talks while in her letter about a tax revolt with all the owners of homes worth $25,000 or less dumping their little houses on the state, "for the legislators to collect revenue for whatever they use the money for."

FIXED INCOME STIFLING

And she talks about the President's salary being doubled and the senators and the congressmen getting more, too, all those things that bother old people on fixed incomes. And there is an idea in her letter that we try to handle home ownership like we tax income, some kind of a scale with age, income and family responsibility worked into the tax you have to pay for owning a home.

"Of course property taxes were never designed to be fair," she says. "It seems hideous that we are penalized by tax increases when we try to keep our homes from falling down on us through disrepair.

"So tell me—what is the sense of taxing us old and poor out of homes into low cost housing units, or onto welfare when we have a home we can maintain in peace and dignity if some consideration is given to property taxes—when we reach retirement age?"

THE ROCKEFELLER LATIN AMERICA REPORT

Mr. HARRIS. Mr. President, the January 31, 1970, issue of Saturday Review of Literature contains an excellent article concerning the report of Gov. Nelson Rockefeller on the trip he made throughout Latin America at the request of President Nixon.

The article, written by Dan Kurzman, rightly expresses serious concern that under the Rockefeller recommendations we are returning to the pre-Kennedy policies which caused us to be alined in the minds of so many of the people of Latin America on the side of military dictators and against the social, political, and economic progress of the people.

Latin America is the area of the world with which I am most familiar and in which I have most extensively traveled since coming to the Senate of the United States. From this background, I find Mr. Kurzman's criticisms of the Rockefeller recommendations incisive and justified. I am seriously disturbed that we seem to be going backwards in our policy in respect to this vital area of the world within our own hemisphere and in regard to these millions of people whose vast problems we cannot ignore.

In the hope that Senators may find this article useful, I ask unanimous consent that it be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THE ROCKY WAY TO LATIN LIAISON

(By Dan Kurzman)

Since Fidel Castro established the first communist state in Latin America a decade ago, the United States has taken an interest in that region which she had never previously shown. The Latin American nations could no longer be considered simply a source of quick, easy profits and guaranteed support for Washington's international policies.

Castro opened Yankee eyes to the fact that Latin America, finally awakened from a long sleep, had begun to churn with social, economic, and political ferment; that unless the United States could funnel the burgeoning forces of revolution into peaceful, moderate channels, more Castros would move into power.

President Kennedy, on taking office, therefore began building on a policy of cooperation that had its roots in Franklin Roosevelt's Good Neighbor Policy. FDR had ended the tradition of "gunboat diplomacy" and open intervention in Latin American domestic affairs that had characterized United States domination of the hemisphere in her own economic and political interests.

In inaugurating the Alliance for Progress in 1961 as a spur to "peaceful revolution" in Latin America, Kennedy said, "We must not forget that our Alliance . . . is more than a doctrine of development—a blueprint of economic advance. . . . It says that in our hemisphere no society is free until all its people have an equal opportunity to share the fruits of their own land and their own labor. And it says that material progress is meaningless without individual freedom and political liberty."

The Alliance, in a sense, was a negation of the Good Neighbor Policy, from which it sprang. The latter permitted the United States to embrace any fawning dictator who might come to power. (Typically, Roosevelt is reported to have said of the Dominican Republic's Rafael Trujillo: "He may be an S.O.B., but he's *our* S.O.B.") The Alliance enabled Washington to exert pressure for the establishment of constitutional governments. Kennedy thus reintroduced the principle of intervention, but this time mainly in the service of the Latin American people rather than of U.S. special interests. He firmly tied economic aid to strings intended to extract from the ruling regimes vital social, economic, and political reforms, and in his fervor went so far as to suspend aid to and to withhold recognition from juntas that had ousted constitutional governments—in line with suggestions made by Dr. Milton Eisenhower, brother of the late President, that the United States remain aloof from the dictators.

When President Johnson took office he gave lip service to the same principles, but in fact let Thomas C. Mann, his powerful Assistant Secretary of State for Inter-American Affairs, concentrate more on the economic aspects of the Alliance and less on the social and political goals. Mann ordered his ambassadors to stop harassing the stubborn oligarchs, and listened more closely to private American interests, in one case suspending aid to the then constitutional government of Peru because it would not come to "acceptable" terms with U.S. oilmen in that country. Bogged down in apathy and red tape, the "peaceful revolution" became "pragmatically" evolutionary, little more than the "doctrine of development" Kennedy had rejected.

In spring and summer 1969 President Nixon sent New York Governor Nelson Rockefeller on a quick tour of Latin America to prepare recommendations to guide him in revitalizing United States relations with that region. Accompanied by some twenty advisers, Rockefeller flew from capital to capital, where they were greeted mainly by

nervous Latin American strongmen (the democratic leaders of Venezuela and Chile and the reform-minded military chiefs of Peru asked that he skip their countries). The Rockefeller party, which was also confronted by crowds of anti-American rioters and demonstrators, was impressed by the messages of both groups: it became convinced that the Castro-communist threat was rapidly growing. Appropriately, Rockefeller in this report urges an upgrading of Latin America in United States policy considerations, which would include the appointment of a new Secretary of Western Hemisphere Affairs. At the same time he recommends that future policy be determined largely by one guideline: more "pragmatism."

"The United States," the report maintains, "cannot allow disagreements with the form or the domestic policies of other American governments to jeopardize its basic objective of working with and for their people to our mutual benefit." If this recommendation, which in effect calls for a reversion to the central principle of the Good Neighbor Policy, is adopted, Washington will presumably no longer impinge on the sovereignty of Latin American nations in carrying out its aid program.

In some respects this doctrine might greatly improve United States relations with Latin America, especially in so far as it applies to the principle (also backed by the report) that "United States national interests must supersede those of any domestic special-interest group in the conduct of Western Hemisphere relations." Thus Rockefeller—who has considerable economic interests of his own in Latin America—courageously seeks, together with a general loosening of trade restrictions, the suspension or modification of the Hickenlooper Amendment, which calls for a cut-off of aid to any country expropriating American property without "just" and "prompt" compensation.

Other "sepcial-interest" strings attached to aid would also be eliminated: the provision that half the exports financed by the United States must be shipped in American freighters; the requirement that imports must be purchased in the United States regardless of price. Such restrictions, the report indicates, may have profited American companies—but at the expense of the nations being helped.

Unfortunately, those requirements originally meant to serve United States as well as Latin American *national* interests would also be removed, if they have not already been—to the probable benefit of the communists, whom such policy is supposed to counter. For one thing, the report would have the United States no longer press for democratic government but deal with dictators and democrats on an equal basis—formalizing Mann's more subtle regression to the past.

This recommendation is likely to disappoint many Americans who have felt, as President Kennedy did, that the Alliance for Progress should be more than a simple aid program. And it will surely seem callous to numerous Latin Americans who have long suffered under brutal dictatorships and blame the United States for supporting them. These people reason that even if American unfriendliness to dictators did not always produce free elections, it placed an unrelenting pressure on such rulers to ease their oppressive policies, and gave the oppressed an ideological objective other than communism on which to pin their hopes. Certainly the communists must have enjoyed the much publicized photograph showing Nelson Rockefeller and Haiti's gangsterlike President Francois Duvalier linking arms in Port Au-Prince.

Nor is it clear that "pragmatism" is the only factor behind this recommendation. Fear is probably another. Ever since Kennedy announced the Alliance, Washington has found itself on the horns of an uncomfortable dilemma. On the one hand, it wants to promote democracy as an alternative to Castro-communism. But, on the other, it fears democracy, particularly in the less-developed Latin American countries, since it feels in many cases subconsciously that inexperienced democratic régimes will prove less resistant to communist infiltration than the rightist military régimes with which American diplomats have dealt for so long.

Conditioned by the diplomat's ingrained reluctance to gamble on unknown quantities—and democracy in Latin America is largely an unknown quantity—many American officials, when they perceive the slightest danger of a communist advance, veer almost reflexively toward the strongman rather than the democrat for suppression of the threat. And they are encouraged in most cases by the natural tendency of the democrats to assume a more independent and nationalistic attitude than the rightist dictators, who usually, lacking popular support, must often depend on American backing to stay in power.

But even on grounds of pragmatism the Rockefeller proposal appears shaky. It might make sense in theory: after all, the Latin Americans have no democratic tradition, and anyway why deprive hungry, impoverished people of aid simply because they are led by a tyrant? The trouble is that this question is usually irrelevant, since aid must be funneled through the existing government, and experience has shown that little remains for the people by the time it trickles through the totalitarian machinery. Corruption, of course, is no stranger to constitutional Latin American régimes, but most of them have tended to make far more efficient use of aid funds, if only as a means of winning the next election.

Moreover, the problem of waste—and outright theft—would be further aggravated by another provision in the report, which calls on the Latin American nations to "assume direction of their own development efforts." The United States, the report says, has only caused resentment in these countries by intervening in their economic policies and programs. The provision suggests that Rockefeller and his advisers did little research in the field on this question, which is not surprising in view of the lightning nature of their tour.

Certainly the Latin leaders and bureaucrats have been resentful of American "intervention" in their affairs, particularly where money is concerned. But this reviewer, while covering Latin America for several years, listened to dozens of people with no pockets to line—workers, peasants, shopkeepers, slum-dwellers, and others for whom American aid is presumably earmarked—complain that the United States makes too little effort to see that this aid reaches down to them. The proposed new policy would reduce this effort even further than did Thomas Mann's, at the expense not only of the intended recipient but of the hard-pressed American taxpayer.

Nor is the proposal for fewer controls conducive to the social and economic reform necessary to render aid funds effective, particularly in countries with traditionalist dictators. The Kennedy policy of using aid as a carrot to achieve such reforms, long dormant anyway, would be killed outright by the report. Once again it must be asked whether this is fair to the American taxpayer.

Is it fair for him to finance economic projects in a nation whose wealthier citizens stash away their own tax-free money in Swiss banks while blocking all efforts at tax reform? Is his contribution helping to contain communism if used, say, for an irrigation system that adds to the wealth of some absentee landlord but only to the working hours of the hungry, sickly, landless peasant?

It would, of course, be intervention for the United States to insist on agrarian reform that would give such a peasant a stake in the improved land. But who would complain other than those resistant to reform? Not likely the peasant. Or the American taxpayer who wants something to show for his money. Moreover, is not such minor, constructive intervention on behalf of the people preferable to the military brand Washington thought necessary during the 1965 Dominican revolution—the brand that results from popular revolt against the status quo? It is interesting to note that President Kennedy was probably the most popular United States President in history among the Latin Americans, despite—or, perhaps more accurately, at least in part because of—the pressures he exerted on Latin governments, pressures which had begun in some cases to crack the feudal mores that dominate the continent.

A particularly controversial aspect of Governor Rockefeller's plan for greater pragmatism is his recommendation that the United States be permitted to sell modern aircraft, ships, and other major military equipment to Latin American armies without the aid-cut penalties currently imposed. Such sales should be allowed, his report says, "when these nations believe this equipment is necessary to protect their land, patrol their seacoasts and airspace, and otherwise maintain the morale of their forces and protect their sovereignty."

It is understandable that the United States should supply the Latin American military with such items as trucks, Jeeps, helicopters, and communications equipment needed to fight guerrillas. But it is hard to envision the use of such sophisticated weaponry as jets, tanks, and warships—except for regional conventional wars like the recent Honduras-El Salvador conflict, or to keep a hostile, oppressed populace in check. Must the American taxpayer, simply to maintain the morale of a bloated, privilege-loving military class, also pay for such expensive, unnecessary, lethal playthings—in effect, subsidizing their purchase by contributing aid for other projetcs? Is such a policy pragmatic in terms of American interest—even on the morally questionable grounds that the generals might buy arms elsewhere—when possibly the bitterest factor in Latin anti-Americanism is the belief that the United States is helping to maintain in power suppressive military dictatorships?

This question assumes an added dimension in the light of a new, highly distressing dilemma now facing the United States, one that is perceptively stressed in Tad Szulc's excellent introduction to this *New York Times* edition of the report. Rockefeller's willingness to supply the militarists with modern arms is consistent with the traditional American policy of depending on the Latin American armies, even in the few democratic states, as the ultimate safeguard against a communist takeover. But in recent months a new kind of reformist military leadership has emerged in Latin America, the kind that expropriated American property in Peru and Bolivia. This leadership is enjoying the popularity that goes with ultra-nationalism and anti-Americanism. And its influence may well spread—not unlikely, in proportion to American support for the champions of the status quo. The old military, which has traditionally allied itself with the feudalistic oligarchies, may not hold power much longer. Can the United States pin her ultimate hopes for resistance against communism on military establishments that thrive on anti-Americanism?

Actually, such armies might prove more effective than the conventional ones as a barrier to communism—if they really implement the reforms they decree. For communism feeds best not on reform but on reaction, as was so dramatically demonstrated when an American-backed Batista paved the path to power for Castro. Yet the dilemma is real to Washington. And there is consider-

able truth in the Rockefeller observation that such "authoritarian governments, bent on rapid change, have an intrinsic ideological unreliability and a vulnerability to extreme nationalism. They can go in almost any doctrinal direction."

One recalls the Eisenhower administration's offer of arms in the 1950s to Middle Eastern countries willing to join a pro-Western Baghdad Pact. In 1958 a group of ultranationalist officers took over Iraq in a bloody coup, using the American weapons to destroy all pro-Western leaders. It is to be hoped that the Nixon administration will keep that ironic event in mind when considering the recommendations of the *Rockefeller Report*, some of which are wise, but some of which have been spawned from superficial and dangerously outdated logic.

LADIES OF SIGMA DELTA CHI

Mr. HANSEN. Mr. President, I feel it is proper that Senators commend an organization of professional newsmen for its recent action in recognizing the outstanding abilities of women in the field of journalism.

Sigma Delta Chi recently opened its rolls to women journalists, after having historically refused membership to women.

One of the women initiated into Sigma Delta Chi under the new bylaws is Mrs. Frances Seely Webb. Mrs. Webb, at 76, may well be the oldest woman initiated into the society, according to an article published in the Casper, Wyo., Star-Tribune of January 26, 1970.

In recognition of Mrs. Webb's long service in the newspaper field and in recognition of the progressive move taken by Sigma Delta Chi. I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

AFTER 52 YEARS, SHE STILL THINKS REPORTING IS FUN

(By Phil McAuley)

"How do you like newspaper work?"

"Fine, I'm sure having fun."

That question was put to Frances Seely Webb back in 1917 when she worked a summer as society editor on the Casper Independent, a daily newspaper. Today, 52 years later, Frances is still a working newspaper woman. And she claims she is still having fun.

Sunday Mrs. Webb, as she is known to thousands of Wyoming women, earned a singular honor in her long and varied newspaper career. She was asked and was initiated into Sigma Delta Chi, journalism fraternity which recently opened its rolls to women journalists.

Mrs. Webb may well be the oldest woman initiated into the fraternity, which dates back to 1909 and limits its members to working journalists.

Born Frances Seely on June 25, 1893, in her parents' home at the present site of the store at 225 South Center in Casper, Frances, in addition to her heavy working load as women's editor, spends a considerable amount of time collecting and writing about Casper's past. She is, in fact, the ex-officio historian of the newspaper.

Her father, Lewis Cass Seely, was a gunsmith on Center Street and one of Frances' first visits away from home, she recalls, was for dinner at the CY Ranch west of Casper. She attended at the invitation of Give-a-Damn Jones, ranch foreman, and his wife, the cook. Another memorable trip, she tells about, was when as a little girl she and her parents rode a railroad handcar to Glenrock to dine with family friends.

After attending Park School in Casper (known in 1907 as the high school), Frances completed regular high school in Olean, N.Y., and attended Pratt Institute in Brooklyn for a year studying dress design.

In the summer of 1917, Edness Kimball, then society editor of the Casper Independent, asked her friend Frances to fill in on the society desk while Edness took a vacation. Frances took up the offer and thrived on it."

In 1918, she left to marry Ambrose Eugene Biglin. "Big," as he was known, was assistant cashier of the Casper National Bank. The couple had a son, Gene, now with the Labor Dept. in Washington, D.C., and a daughter, Anne Biglin Metro, of Tucson, Ariz.

After divorcing "Big" and a later marriage to Rayburn Stokes Webb, an architect, Frances was back on the Tribune with a few years out to work as a case worker in the county welfare dept. She returned to the Tribune permanently in 1939.

In 1956, when Frances was 63, she retired—for good she thought—and took a long trip to Europe. She was persuaded to write for the Tribune the following summer, however, and the job turned out to be "permanent" again, as she puts it.

Her plans for the future?

"To continue to get the women's pages out for the Casper Tribune."

THE PROPOSED BIG SOUTH FORK, TENN., NATIONAL PARK

Mr. GORE. Mr. President, in his eloquent state of the Union message, President Nixon spoke of "opening up new parks."

And I have a suggestion to make.

The Big South Fork area of Tennessee and Kentucky possesses scenic beauty unparalleled by any to be found in the Eastern United States, if indeed, by any to be found in any area in United States. This area possesses not only scenic beauty but a natural wilderness character that should be preserved for posterity.

It is an area of innumerable streams, named and nameless. These many small, clear streams race in magnificent turbulence to a gathering in the Cumberland Fork tributary which, joining with New River, becomes known as the Big South Fork of the Cumberland River. Flowing wild through mountainous terrain for eons, it has cut its way through the precipitous ranges, forming dramatic canyons 500 feet deep with varicolored walls.

Sometimes the water is placid and still and clear pooled, its progress impeded by huge room-size boulders characteristic of its unusual sandstone geology; and, then, again races with white spray through narrows and over precipices, finally roaring into union with the North Fork into what is now Cumberland Lake.

Mr. President, visitors already come from far and near to enjoy the majestic beauty of this region. The national canoe races are annually held on the Big South Fork. Like others I have journeyed there to tarry upon the sandy beaches, peer into mirrorlike pools, ride the trails on the horse of a friend, gaze with admiration upon virgin trees still straining to share the sunlight. Millions of our people now and forever more should be privileged to enjoy these undisturbed river gorges, to share these beauties of nature.

I have heretofore suggested to Senators that this area be constituted a major national park.

Tennessee Citizens for Wilderness Planning, a nonprofit organization of citizens with common interest in the preservation and enjoyment of our wild lands and waters, has asked that this area be preserved and designated "as a national park or national recreation area." This organization has prepared an eloquent statement of the peculiar attributes of this area. I ask unanimous consent that it be printed at this point in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

1. Dramatic scenery: sheer, varicolored cliff walls, buttes, "rockhouses" (shallow caves), arches, successions of rapids and deep pools, huge moss-covered rocks along shores and in streambeds, sandy beaches, rich vegetation.
2. Wilderness character: no habitations, very few road crossings, no paralleling roads within gorges (except primitive roads along Pine Creek, North Whiteoak Cr., and a few miles along Big South Fork).
3. Geology: sandstone canyons very rare in East; unusual rock formations and large rocks along streambeds characteristic of sandstone geology and not found in limestone and other rivers.
4. Ecology: extreme diversity of vegetation; biota unique and unlike Highland Rim to west of Valley and Ridge Province to east; relics of more tropical floras surviving in microclimes of gorges; several plants otherwise restricted to Coastal Plains; combinations of unusual habitats within gorges, ranging from extremely xeric to highly mesophytic, to hydric; area of persistence, since Tertiary, of mixed mesophytic forest which, after Pleistocene glaciation, formed source of the present deciduous forest of eastern U.S.; several unusual and possibly unique species of fish.
5. Recreational opportunities: wilderness experience; whitewater sport (canoe, kayak, rubber-raft) or placid floating (depending on river segment); wilderness camping; hiking; swimming in deep pools and sun-bathing on sandy beaches; fishing (muskellunge, walleye, trout); nature study; photography.
6. Archeology and history: remains of prehistoric Indian cultures in "rockhouses" and village sites; Rugby colony restoration, integrally related to Clear Fork and Whiteoak Creek.

Mr. GORE. Mr. President, Congress has directed the study of "alternative plans for the use of the Big South Fork of the Cumberland River and its tributaries, Kentucky and Tennessee, and necessary contiguous areas for recreational, conservation, or preservation uses."—Public Law 90–483, section 218.

This study has now been underway for months. Its conclusion and release is anticipated with keen interest.

Once again, I call attention to President Nixon's state of the Union reference to the desirability of "opening up new parks."

Mr. President, 53 organizations with a membership of more than 200,000 citizens have affirmed that the goals of recreation, conservation, and preservation in the region of the Big South Fork of the Cumberland River can be best achieved by the following congressional actions:

First and foremost, the entire free-flowing Big South Fork of the Cumberland, its entire Clear Fork stem, and at least the lower portions of the New River should be preserved in their free-flowing state and protected by designation as national wild or scenic rivers under the provisions of Public Law 90-542—National Wild and Scenic Rivers Act—or by other designation giving at least equivalent protection.

In addition, surrounding land areas and tributary streams, if possible, be included in a more comprehensive plan, preferably through national park or national recreation area designation.

I ask unanimous consent that the names of these organizations, together with the names and address of the signatory authorities, be printed in the RECORD.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

Organization	Name and position of signatory	Residence of signatory
Tennessee:		
Tennessee Citizens for Wilderness Planning.	L. B. Russell, president	Oak Ridge.
Tennessee Conservation League	Louis M. Doney, president	Knoxville.
Tennessee Federation of Garden Clubs.	Mrs. H. W. Caldwell, president	Ashland City.
Tennessee Scenic Rivers Association.	Donald A. Bodley, president	Chattanooga.
Middle Tennessee Conservancy Council.	Glenn Gentry, president	Donelson.
Holston Valley Conservation Congress.	Z. Earnest, president	Kingsport.
Upper Cumberland Tribe of American Indians.	T. H. Troxel, chief	Oneida.
Rugby Restoration Association	Stanley Warner, director	Lookout Mountain.
Appalachian Anglers	F. Callaway, Jr., president	Knoxville.
Association for the Preservation of Tennessee Antiquities.	A. W. Milton, president	Lookout Mountain.
Bluff City Canoe Club	S. H. Hall, Chairman of Waterways Commission.	Memphis.
East Tennessee White Water Club	R. E. Reed, president	Oak Ridge.
Highland Sportsman Club, Inc	Hal Siegel, secretary	Chattanooga.
National Campers & Hikers Association, Talahi Chapter.	R. B. Martin, president	Oak Ridge.
National Speleological Society, East Tennessee Grotto.	D. Irving, chairman	Do.
Ozark Society, Memphis Region	E. Riddick, regional director	Memphis.
Smoky Mountains Hiking Club	L. G. Fox, president	Knoxville.
Tennessee Archeological Society, Knoxville Chapter.	J. M. Bobb, president	Oak Ridge.
Tennessee Valley Canoe Club	W. F. Popp, Vice president	Chattanooga.
Troup Unlimited, Tennessee Chapter.	F. J. Moses, Jr., president	Knoxville.
Fort Loudon Association	Alice Milton, executive director	Lookout Mountain.
Hamilton Sportsman	R. E. Prichett, president	Hixson.
Kiwanis Club of Atomic City of Oak Oak Ridge.	H. B. Pruden III, president	Oak Ridge.
Knoxville Science Club	28 members, individually	Knoxville.
Nocturne Garden Club, Knoxville	E. L. Robbins, president	Do.
Greater Knoxville Area Audubon Chapter.	J. H. Burbank, president	Do.
National and regional:		
The Wilderness Society	Stewart M. Brandborg, executive director.	Washington, D.C.
Citizens Committee on Natural Resources.	Spencer M. Smith, Jr., secretary.	Do.
Ecological Society of America	S. I. Auerbach, secretary	Oak Ridge, Tenn.
United States Canoe Association, Inc.	C. W. Moore, president	Indianapolis, Ind.
American White-water Affiliation	O. Hawksley, president	Warrensburg, Mo.
Southeastern Outdoor Press Association.	D. D. Dickey, chairman	Knoxville, Tenn.
Sierra Club	National Board of Directors	San Francisco, Calif.
Association of Southeastern Biologists.	Prof. E. E. C. Clebsch, Chairman, Conservation Committee.	Knoxville, Tenn.
National Speleological Society, Inc	J. A. Stellmack, President	State College, Pa.
Other States:		
South Fork National Park Association.	H. J. Evans, executive vice president.	Lexington, Ky.
Sierra Club, Kentucky Section, Great Lakes Chapter.	W. R. Holstein, chairman	Louisville, Ky.
National Speleological Society, Blue Grass Chapter.	W. M. Andrews, chairman	Lexington, Ky.
Lexington Climbing Club	D. H. Andrews, chairman	Do.
Southeastern Kentucky Credit Bureau.	R. A. Blair, owner	Corbin, Ky.
Middletown Audubon Society	A. J. Kopp, president	Middletown, Ohio.
Mansfield Nature Club	Mrs. L. S. Barr, Conservation chairman.	Mansfield, Ohio.
Sierra Club, Ohio Chapter	J. W. Martin, chairman	Cincinnati, Ohio.
Little Miami, Inc	George Henkle, President	Lebanon, Ohio.
Canoe Trails	B. & J. Morgan, directors	Cincinnati, Ohio.
Warren County Canoe Association	Dr. J. Davenport, President	Lebanon, Ohio.
Kellogg Audubon Club	E. C. Barr, Conservation Chairman.	Mansfield, Ohio.
Elyria Audubon Society	Dr. O. Davies, Vice President	Lakewood, Ohio.
The Georgia Conservancy, Inc	Don Nichols, Executive Director	Decatur, Ga.
Georgia Sportsmen's Federation	J. L. Adams, Executive Secretary	Atlanta, Ga.
Lida Edwards Audubon Society	Wm. R. Woods, Secretary	Evansville, Ind.
Blatchley Nature Club, Inc	E. H. Chamberlain, President	Lapel, Ind.
Champaign County Audubon Society.	H. M. Parker, Conservation Chairman.	Urbana, Ill.

FUNDS FOR INDIAN HEALTH PROGRAM

Mr. HARRIS. Mr. President, I joined with more than 90 Members of the House and Senate last week in a letter to the President requesting that the funds for Indian health programs, which have been withheld by the administration, be released immediately. Other Members of the House and Senate have written to Health, Education, and Welfare Secretary Finch requesting that these funds be released.

It is noteworthy that the National Council on Indian Opportunity in a recent report recognized the seriousness of the action taken by the administration. The pertinent part of the report reads as follows:

It is a recognized fact that despite considerable improvement the health status of the American Indian is far below that of the general population of the United States. Indian infant mortality after the first month of life is 3 times the national average. This means, in plain language, that children are dying needlessly. The average life span of an Indian is 44 years, one third short of the national average of 64 years; in Alaska it is only 36 years. In light of the dire need for all health facilities and health needs, it is criminal to impose a personnel and budget freeze on Indian health programs. Even without a freeze, Indian hospitals are woefully understaffed and undersupplied, even to the extent of lacking basic equipment and medicine. We deplore the budget decisions that have caused this state of inadequacy.

In December 1969, I successfully proposed an amendment to a supplemental appropriations bill, which contained $1 million for Indian health programs, to provide an additional $2 million. The conference committee cut back the funds provided in the supplemental appropriations bill as passed by the Senate, which included the funds provided for in my amendment, to $2,048,000.

At that time, I called to the attention of my colleagues the fact that critical shortages exist in basic drugs such as aspirin and insulin in many of the Indian Health Service hospitals in Oklahoma and that the hospitals were greatly understaffed.

Statements made by Senators from other States having Indian populations indicated the critical health needs of the American Indian.

It is beyond comprehension why funds for the basic needs for Indian health would be frozen when Indians are dying daily from lack of proper treatment. The needs have been documented by a congressional investigation and by an impressive number of House and Senate Members. These funds must be released immediately and I again today call upon the administration to remove the freeze.

MAJORITY OF AMERICANS FAVOR VOLUNTEER ARMY

Mr. HATFIELD. Mr. President, a recent poll by Louis Harris I find very encouraging. Its conclusions were that 52 percent of the American public favor a volunteer military. This survey is particularly timely. The Gates Commission appointed by the President to study the feasibility of a volunteer armed force is preparing its final draft for presentation to the President, and the Senate Committee on Armed Services, per Senator JOHN STENNIS' assurances last session, will be holding hearings on the Selective Service System in the near future.

I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THE HARRIS SURVEY: 52 PERCENT FAVOR VOLUNTEER ARMY PLAN

(By Louis Harris)

Although three out of every four support the recent draft lottery plan instituted by the Nixon administration, by 52 to 38 per cent the public would like to see the entire draft system scrapped and a volunteer army substituted for it.

Easily the most appealing argument made in behalf of a volunteer army is that then "only young men who want to serve in the armed forces will have to." This argument receives the support of 67 per cent of the American people.

Recently, a cross section of 1,615 households was asked:

"Would you favor a volunteer army as a substitute for the present draft lottery system or would you favor keeping the present draft system?"

VOLUNTEER ARMY

[In percent]

	Favor	Oppose	Not sure
Nationwide	52	38	10
By age:			
Under 30	54	37	9
31-49	51	41	9
50 plus	50	38	12
By education:			
Grade school or less	47	37	16
High school	49	41	10
College	59	34	7

Younger people, especially those subject to the draft, and the more affluent favor the volunteer army idea most. They most often observed that the trouble with the present system is that it compelled many young men not in sympathy with the war effort to be subject to the draft. They frequently volunteered that even though the lottery was an improvement, the most equitable system would be to make the armed forces entirely voluntary.

The survey said to the cross section:

"Let me read you some statements which have been made about a volunteer army. For each, tell me if you tend to agree or disagree."

STATEMENTS ABOUT VOLUNTEER ARMY

[In percent]

	Agree	Disagree	Not Sure
Positive:			
A volunteer army is good because only young men who want to serve will be in it	67	23	10
A volunteer army would make it easier for the U.S. to fight a war such as Vietnam, and that is good	42	40	18
Negative:			
A volunteer army would destroy the American tradition of civilians defending the country in time of war	29	56	15
A volunteer army would create a professional military force that would be a real threat in a democracy	24	55	21

Clearly, the appeal of a volunteer army is that it satisfies those who dislike military services as well as those who would like to see a professional army. Today, both groups make up a majority of the American public.

FINANCIAL STATEMENT OF SENATOR MONDALE

Mr. MONDALE. Mr. President, I ask unanimous consent that a statement of my estimated net worth as of December 31, 1969, be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

Financial statement of Senator Walter F. Mondale, Dec. 31, 1969

ASSETS

Residence in Washington	$60,000.00
Stock (current value):	
IBM (12 shares)	4,374.00
Viatron Computer Systems Corp. (200 shares)	6,100.00
Scott Paper Co. (23 shares)	782.00
Total	11,256.00
Automobiles:	
Chevrolet	2,920.00
Oldsmobile	3,350.00
Total	6,270.00
Cash in deposits	2,400.00
Household and personal goods	$5,000.00
Cash value of life insurance	1,714.62
Personal contributions to Federal employees retirement system	12,027.39
Total assets	98,668.01

LIABILITIES

Mortgage on residence in Washington	39,839.20
Personal loan (C. A. Nickloff Agency, Hibbing, Minn.)	5,500.00
Miscellaneous personal bills	750.00
Total liabilities	46,089.20
Estimated net worth	52,578.81

DISCONTINUANCE OF PUBLIC TRANSPORTATION SERVICE

Mr. CRANSTON. Mr. President, on Monday, February 2, the Senate is scheduled to consider the Mass Transportation Assistance Act of 1969.

Although mass transit is generally thought of as solely a big city problem, nothing could be further from the truth. From Watsonville, Calif., to Calais, Maine, 124 small towns have discontinued their public transportation service since 1954. Thus, citizens residing in these towns who do not have access to an automobile are literally immobile.

Mr. President, I ask unanimous consent that a list of cities where public transportation service has been discontinued since 1954, be printed in the RECORD.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

U.S. CITIES WITH NO TRANSIT SERVICE (SERVICE DISCONTINUED SINCE 1954)

City	Population (1960)	Year transit service discontinued
CITIES OVER 25,000 POPULATION		
Selma, Ala	28,385	1965
Tuscaloosa, Ala	63,370	1968
Mesa, Ariz	33,772	1954
El Dorado, Ark	25,292	1955
Fort Smith, Ark	52,991	1968
Fort Collins, Colo	25,027	1959
Fort Pierce, Fla	25,136	1956
Athens, Ga	31,355	1956
Valdosta, Ga	30,652	1967
Idaho Falls, Idaho	33,161	1955
Pocatello, Idaho	28,534	1965
Kankakee, Ill	27,666	1959
Anderson, Ind	67,366	1969
Bloomington, Ind	31,357	1966
Elkhart, Ind	40,274	1958
Kokomo, Ind	47,197	1962
Fort Dodge, Iowa	28,399	1966
Hutchinson, Kans	37,574	1959
Bowling Green, Ky	28,338	(1)
New Iberia, La	29,062	(1)
Tanton, Mass	41,132	1959
Ann Arbor, Mich	67,340	1969
Midland, Mich	27,779	1955
Greenville, Miss	41,502	1954
Laurel, Miss	27,889	1956
Billings, Mont	52,851	1966
Great Falls, Mont	55,357	1961
Missoula, Mont	27,090	1962
Reno, Nev	51,470	1965
Carlsbad, N Mex	25,541	1968
Roswell, N. Mex	39,593	1963
Santa Fe, N. Mex	33,394	1966
Watertown, N.Y	33,306	1967
Concord, N. C	28,991	1965
Goldsboro, N.C	28,873	1965
Alliance, Ohio	28,362	1969
Findlay, Ohio	30,344	1963
Springfield, Ohio	82,723	1969
Warren, Ohio	59,648	1969
Bartlesville, Okla	27,893	1956
Sharon, Pa	25,267	1958
Rapid City, S. Dak	42,399	1963
Oak Ridge, Tenn	27,169	1960
Big Spring, Tex	31,230	1960
Denton, Tex	26,844	1961
Harlingen, Tex	41,207	1969
Kingsville, Tex	25,297	1966
Midland, Tex	62,625	1954
Odessa, Tex	80,338	1965
Orange, Tex	25,605	1967
Victoria, Tex	32,047	1955
Provo, Utah	36,047	1964
Casper, Wyo	38,930	1967
Cheyenne, Wyo	43,505	1959
CITIES UNDER 25,000 POPULATION		
Camden, Ark	15,823	1956
Conway, Ark	9,791	1955
Fayetteville, Ark	20,274	1956
Jonesboro, Ark	21,418	1957
West Memphis, Ark	19,374	1956
Watsonville, Calif	13,293	N.A.
Derby, Colo	10,124	1957
Trinidad, Colo	10,691	1962
Fort Myers, Fla	22,523	1958
Lake Worth, Fla	20,758	1960
Melbourne, Fla	11,982	1962
LaGrange, Ga	23,632	1958
Jacksonville, Ill	21,690	1955
Marion, Ill	11,724	1954
Ottawa, Ill	19,408	1957
Rantoul, Ill	22,116	1959
Savanna, Ill	4,950	1958
Columbus, Ind	20,778	1958
Logansport, Ind	21,106	1965
Peru, Ind	14,453	1958
Vincennes, Ind	18,046	1962
Wabash, Ind	13,000	1961
Washington, Ind	10,846	1956
Boone, Iowa	12,468	1960
Keokuk, Iowa	16,316	1956
Pittsburg, Kans	18,678	1961
Hopkinsville, Ky	19,465	1954
Bogalusa, La	21,423	1964
Calais, Maine	4,223	1960
Houghton, Mich	3,393	1955
Monroe, Mich	22,968	1956
Brainerd, Minn	12,898	1966
Detroit Lakes, Minn	5,633	1954
Hannibal, Mo	20,028	1957
Hastings, Nebr	21,412	1959
Ralston, Nebr	2,977	1957
Berlin, N.H	17,821	(1)
Hornell, N.Y	13,907	1957
Little Falls, N.Y	8,935	1954
Salamanca, N.Y	8,480	1959
Elizabeth City, N.C	14,062	1957
Henderson, N.C	12,740	(1)
Kinston, N.C	24,819	1957
East Liverpool, Ohio	22,306	1955
Marietta, Ohio	16,847	1964
Tiffin, Ohio	21,478	(1)
Klamath Falls, Oreg	16,949	1960
Roseburg, Oreg	11,467	1960
Carbondale, Pa	13,595	1954
Ellwood City, Pa	12,413	1955
Latrobe, Pa	11,932	1958
Oil City, Pa	17,692	(1)
Aberdeen, S. Dak	23,073	(1)
Borger, Tex	20,911	1954
Brownwood, Tex	16,974	1964
Gainesville, Tex	13,083	1957
Greenville, Tex	19,087	1957
Lufkin, Tex	17,641	1954
McKinney, Tex	13,763	1956
Pampa, Tex	24,664	1956
Paris, Tex	20,977	1962
Rutland, Vt	18,325	1966
Bedford, Va	5,921	1956
Waynesboro, Va	15,694	1958
Chehalis, Wash	5,199	1959
Follansbee, W. Va	4,052	1958
Williamson, W. Va	6,746	1959
Beaver Dam, Wis	13,118	1955
Hurley, Wis	2,763	1961
Two Rivers, Wis	12,393	1954

1 Not available.

CABINET COMMITTEE ON OPPORTUNITIES FOR SPANISH-SPEAKING PEOPLE

Mr. SCOTT. Mr. President, President Nixon recently signed into law Senate bill 740. This measure, by establishing a Cabinet Committee on Opportunities for Spanish-Speaking People, is intended to assure that Federal programs are reaching all Mexican Americans, Puerto Rican Americans, Cuban Americans, and all other Spanish-speaking and Spanish-surnamed Americans and providing the assistance they need. It will also seek out new programs that may be necessary to

handle problems that are unique to such persons.

This is a vitally important measure because it could do much to increase the Federal Government's responsiveness to the particular needs of an important segment of our society.

I ask unanimous consent that excerpts from the Senate report on this measure be printed at the conclusion of my remarks.

There being no objection, the excerpts from the report (91–422) were ordered to be printed in the RECORD, as follows:

ESTABLISH A CABINET COMMITTEE ON OPPORTUNITIES FOR SPANISH-SPEAKING PEOPLE

PURPOSE

S. 740, as amended, is designed (1) to insure that Federal programs are reaching and providing the necessary assistance for all Spanish-speaking and Spanish-surnamed Americans, including Mexican, Puerto Rican, and Cuban Americans; (2) to provide for the development of new programs which may be necessary to meet the problems which are unique to such persons; and (3) to give impetus to an integrated, Government-wide effort of assistance to such groups by providing for the establishment by law of a permanent body—the Cabinet Committee on Opportunities for Spanish-Speaking People—to replace the Interagency Committee on Mexican-American Affairs, established by Presidential memorandum in 1967.

The principal functions of the proposed Cabinet Committee would be to advise Federal departments and agencies regarding (1) appropriate action to be taken to assure that Federal programs are providing the assistance required by such Spanish Americans, and (2) the development and implementation of comprehensive and coordinated policies, plans, and programs focusing on the special problems and needs of the Spanish-American community. In connection therewith, the Committee would be authorized to foster such surveys, studies, research and demonstration, and technical assistance projects and establish and promote such relationships with and participation by State and local governments and the private sector as may be appropriate to identify and assist in solving the special problems of the people concerned. The Committee would be required to meet at least quarterly each year and to submit to the President and the Congress an annual report of its activities during the preceding year, including appropriate recommendations.

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Is there further morning business? If not, morning business is concluded.

NEWSPAPER PRESERVATION ACT

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the unfinished business be laid before the Senate.

The ACTING PRESIDENT pro tempore. The bill will be stated by title.

The BILL CLERK. A bill (S. 1520) to exempt from the antitrust laws certain combinations and arrangements necessary for the survival of failing newspapers.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered, and the Senate will proceed to its consideration.

ORDER OF BUSINESS

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. INOUYE. Mr. President, I ask unanimous consent that the order for quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The question is on agreeing to the amendment of the Senator from New Hampshire (Mr. MCINTYRE).

Mr. INOUYE. Mr. President, I oppose the amendment offered by the Senator from New Hampshire to the Newspaper Preservation Act.

This amendment would deny the benefits of the act to joint operating arrangements where one of the papers owns or controls any other newspaper or any radio or television station. The very simplicity of the amendment is its undoing, for this amendment would result in denying the benefits of S. 1520 to 18 of the 22 cities where there are now joint operating arrangements. This includes Honolulu.

If adopted this amendment would exclude the two newspapers in Honolulu from the exemption provided by S. 1520. Why? Not because either paper, the Advertiser or the Star-Bulletin, owns a radio or television station, or because either paper is part of a large chain, but simply because one of the two papers, the Star-Bulletin, has entered into arrangements to purchase control of the newspaper on Guam. Let me note further that the Star-Bulletin was and is the financially dominant paper in Honolulu—the Advertiser having been the failing newspaper when they entered into their joint operating arrangement in 1962. But, because the Star-Bulletin will control another newspaper, the amendment would deny the benefits of S. 1520 to both the Star-Bulletin and the Advertiser. The result would be the likely demise of the Advertiser. That is about as inequitable a result as can be imagined.

And, Honolulu is not the only city where such unfair results would ensue from this amendment. One of the two joint operators in 20 of the 22 cities with such arrangements is an independent—nonchain—newspaper. More likely than not, the independent is the financially weaker paper. Yet, this amendment would mitigate against such weaker papers, eventually putting them out of business.

In like manner, the amendment would eliminate from the benefits of S. 1520 the St. Louis Post-Dispatch, the only paper owned by Joseph Pulitzer, because there is an ownership of radio or television.

I believe it should be noted that this amendment is offered by someone opposed to this legislation. It is also significant to note that it is offered by a Senator from a State where there are no joint operating arrangements, and, in fact, where there is no city with competing newspapers. In all of New Hampshire, there is but one daily morning paper, and one Sunday paper. I ask the Senator from New Hampshire not to deprive the citizens of Hawaii, under the guise of preserving competition, editorial and news competition which has already disappeared from the cities of his great State as from so many others.

I also call to the attention of my esteemed colleague, the Senior Senator from Michigan, the fact that there is only a single morning paper in his entire State. If there was ever fertile ground for new entries, for new daily newspapers to come into being, it is certainly present in Michigan's market of 9 million inhabitants, and yet we see no takers. However, we now witness the opponents of S. 1520 encouraging the bill's defeat and the demise of 22 of the 44 news voices involved upon this specious premise.

The Senator from New Hampshire has rehashed in his statement, in support of his amendment to limit the application of this bill to four of the 22 cities involved, all of the arguments presented during the hearings and in committee during the consideration of this measure.

Now, I share the Senator's concern over the increased media concentration which we have witnessed. Instead, it is for this very reason that I sponsored S. 1520. The effect of the McIntyre amendment if adopted, would be to accelerate such concentration. And while I believe the increased concentration of media power not only in newspapers but in radio and television is a matter requiring our legislative attention, this bill is hardly the proper vehicle. The adoption of this amendment would not deny further media acquisition with resulting concentration to newspapers and newspaper chains where these already own both papers in the community as they now do, in Milwaukee, for example, which the Senator mentioned in his remarks.

In reviewing the record of the hearings before the Subcommittee on Antitrust and Monopoly on S. 1520, I was particularly interested in the testimony given by Mayor Henry W. Maier of Milwaukee. Mayor Maier complained of the lack of news and editorial competition in the two Milwaukee papers—both owned by the same company, the Journal Co. He stated:

> One of the earmarks of the monopoly in Milwaukee to me is the fact that there is no editorial competition between the two voices of the Journal Company. Never do we see, as we do in the two newspapers in Madison, for instance, our State Capital, one newspaper flailing editorially against the other to reinforce freedom of expression and inform the public.

Mr. President, I cannot improve on the endorsement given by Mayor Maier to the real competition between the papers in Madison which have been published under a joint operating agreement since 1948. I am for the Newspaper Preservation Act because I want this freedom of expression and interchange of ideas to continue.

As I have indicated, joint operating arrangements are commercial mergers, but if you are to support this amendment, I think you must answer the question: Why are the full mergers which we now find in most two-newspaper towns, not to be denied the right to other-media ownership or acquisition? Why should we use this bill as a vehicle to deny to those in joint operating arrangements, maintaining competition in the most essential and vital area of news and ideas, rights not denied their more powerful and monopolistic brethren?

This amendment, if adopted, would be highly discriminatory. It deserves defeat in the name of equity. It must be defeated to preserve that competition of ideas and editorial expression which is the purpose of the Newspaper Preservation Act.

Hopefully, my good friend, the Senator from New Hampshire, will provide us with a future opportunity to give proper legislative attention to the overall problems of media concentration.

One of the arguments presented by the Senator in support of his amendment relates to the general prosperity of the newspaper industry. I would merely like to point out that the generally good health of the industry is of little help to the newspaper which is going broke.

The trend is unmistakable and has been of long standing. Fewer and fewer communities exist with competing news voices. To concede that newspapers which found it necessary to enter into a joint operating agreement at an earlier date does not justify the inference that this arrangement could now be severed and either or both parties remain in healthy and sound financial condition. Indeed, it is the economies of a commercial merger which has made this an effective substitute for the more common full mergers which have so long been the unfortunate trend in this industry.

Mr. President, I do pray that Senators will support me in rejecting the amendment.

Mr. HRUSKA. Mr. President, I rise in opposition to the amendment proposed by the Senator from New Hampshire.

There are ways to legislate that should apply to any and all subjects. There are those ways that assert themselves as being commonsense when an amendment is proposed on the floor that had not been considered by the committee in any normal situation. This situation, however, is one that involves a multibillion-dollar industry; as a matter of fact, the media of the Nation. It involves the very complex subject of economic concentration and has its rationale, if there is any, on economic concentration and also the sociological impact that might be had by reason of that economic concentration.

Economic concentration, as such, has been studied very intensively and extensively for the past 3 years by the Subcommittee on Antitrust and Monopoly; and it is not so simple a proposition that it would lend itself to an amendment of this kind. However, it not only involves a multibillion-dollar industry, and the television and radio industries of the Nation, but it would also filter down into multiple ownership of county newspapers and smalltown newspapers, something we should very carefully consider in its full implications.

In addition to the studies of the Antitrust and Monopoly Subcommittee on economic concentration generally, and even in this field specifically, the Federal Communications Commission has recently undertaken to consider and study this subject, and debate whether or not there should be further limitation or different limitations on multiple ownership of radio or TV, and including newspapers. It would ill become the Senate, as a deliberative and careful body in considering legislation, to adopt an amendment of this kind in a manner which can almost be characterized as out of hand.

It is my hope that the amendment will be defeated.

Mr. McINTYRE. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. McINTYRE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. McINTYRE. Mr. President, in rising in support of my amendment, I must refer to the remarks of my distinguished colleague from Hawaii, the floor manager of this bill and one of its principal sponsors, to the effect that in my great State of New Hampshire we have no newspapers either presently party to or looking forward to joint operating agreements. I do not think this detracts from my understanding of this bill. I wonder, in fact, whether, on the contrary, the understanding of some of my colleagues who do have such papers is not impeded by the fact that these papers are now breathing down their necks.

I would like once again to voice my opposition to this bill. I talked at some length yesterday about the growing trend toward media concentration in this country and about why the bill would accentuate that trend. Preventing this is my main concern. And that is why I was very happy to hear the distinguished Senator from Hawaii say he will keep his mind open, as to the merits of my Independent Media Preservation Act, the purposes of which is to avert such concentration.

I would like today to focus my remarks on three principal points.

First, yesterday we heard considerable testimony about the difficulty of new entries into the newspaper business.

The fact of the matter is that technology is improving and, unlike the past, we are now in an era when newspapers can be and are being founded on relatively modest investment. No longer must a would-be publisher invest in expensive typesetting machinery and a newspaper press. As a result of the rapid development of offset printing and cold-type composition, a newspaper can actually be launched with a few typewriters, some scissors, a paste-pot, and a lot of gall.

The newspaper can contract its presswork to one of the many offset press owners now readily available and eager for work to keep their press busy. Granted the new venture cannot emerge full-blown as a metropolitan competitor. But newspapers are being launched to serve smaller geographic areas, and in some instances have found acceptance that has propelled them into full metropolitan competition. I would cite the Oklahoma Journal at Oklahoma City as an example.

These newcomers are truly "independent editorial voices," and their acceptance undoubtedly stems in part from a desire on the part of the community—both readers and advertisers—to have news and advertising competition within their area. The so-called joint newspaper operations constitute something of a hybrid, with ostensible editorial competition, but an absence of any advertising competition. They present the most formidable competitive barrier of all to would-be newcomers into the local newspaper market.

A survey of the 22 cities in which the joint operations are located shows that these metropolitan areas are barren ground for newcomers. Relatively few suburban newspapers survive in these "joint operation" cities, and the reason is obvious: The two daily newspaper owners can and do manipulate advertising and circulation sales to their best advantage. In the case of advertising, this includes pricing their two products in such a way as to discourage merchants from spending advertising dollars anywhere but in the jointly operated newspapers.

Continuing this competitive advantage, or maybe it might better be termed an "anticompetitive" advantage, is one way of discouraging "independent editorial voices," the would-be newcomer to the market. Of what value to the public is this new printing technology and new ease of startup for newspapers if we give the established "joint operators" a special competitive advantage which makes entry into the market foolhardy? The public interest is better served here, as elsewhere in our economy, by encouraging, not discouraging, free and open competition.

Mr. President, the second point I want to discuss is the overall economic condition of the newspaper industry. The present supporters of this bill would have us believe that the industry is in grave trouble, that papers are folding right and left, and that enactment of this bill is the only way to save them.

Anyone who believes this has been seriously misled. The simple fact of the matter is that the newspaper industry is now experiencing unprecedented prosperity. This is the simple truth which emerges from 24 days and eight volumes of testimony before the Senate Antitrust and Monopoly Subcommittee. And it is concurred in also by Forbes magazine, as a result of its own recent study of the industry's condition.

Let me take a few minutes to quote some of the more pertinent passages of the Forbes article. Here is a brief description of the industry's condition:

> The fact is that, on the whole, the news paper industry has never been healthier, not even in the heydey of Joseph Pulitzer and William Randolph Hearst. Advertising revenues and circulation are increasing. Net income in recent years has represented a far greater return on revenues than those in other manufacturing industries.
>
> Look at the statistics:
>
> Since 1949, television advertising revenues have risen from a paltry 57.8 million dollars to 3.2 billion dollars last year. This is a sensational increase. Surely, TV must have cut into newspaper advertising revenues.
>
> Look again: Newspaper advertising revenues have risen, too, from 1.9 billion dollars to 5.3 billion dollars, and this rise has almost exactly paralleled the rise in TV revenue. Newspaper advertising revenue today is almost as great as television, radio and magazine advertising revenues combined. Meanwhile, circulation has been in-

creasing, too, from 51 million in 1946 to 62.5 million last year. The population has expanded more rapidly, but this, as John G. Udell, director of the Bureau of Business Research and Service of the University of Wisconsin, pointed out in a recent study "does not provide a fair and meaningful comparison because babies and small children do not read newspapers."

Also included in the Forbes' article, Mr. President, are some interesting figures as to the profitability of individual companies. Again I quote:

Most newspapers in the U.S. are privately owned; in fact, most newspaper publishers are the sons and even the grandsons of newspaper publishers. It's a family business. Since these publishers don't issue annual reports, it's almost impossible to figure out just how profitable are the newspapers they own. What is more, most publishers of privately owned newspapers habitually cry poverty. And, even when they admit to making profits, they grumble. They insist they're just getting along. And, typically, when asked for the kind of figures that every publicly owned corporation supplies as a matter of course, they refuse to give them.

Publishers' secrecy notwithstanding, the article goes on, there is ample evidence that newspapers are today an excellent investment. Again I quote:

One (source of evidence) is the annual studies that Editor & Publisher, the weekly news magazine of the newspaper industry, makes of medium-sized dailies and of dailies with a circulation of 250,000 or more. These studies are based on top-secret reports from the newspapers themselves.

Examine first the last statistical analysis of what E&P calls the "medium-city newspaper." Operating expenses in 1968 amounted to 3.5 million dollars, $131,300 more than in 1967. Operating profit was 1.4 million dollars versus 1.2 million dollars, a very nice 28.6 percent. Profit after taxes was $660,900, an increase of 5.6 percent over the year before. In other words, E&P's medium-city newspaper netted close to 14 percent on revenues.

E&P's study of newspapers with a circulation of 250,000 or more is equally revealing. On the average last year, they had revenues of 16.5 million dollars. This study does not disclose what the operating profit was or what the newspapers paid in taxes, but it does reveal how much they made after taxes. It was 3.7 million dollars, 22.4 percent of revenues.

In contrast, according to a study made by the First National City Bank, the average net profit on revenues for all manufacturing industries last year was 5.8 percent. Even the drug industry netted only 9.5 percent on revenues.

Lest it be thought that these figures, however apt a description of the industry generally, present a warped picture of the profitability of those companies directly affected by this bill, let me supplement them with some other figures of my own. For the simple fact of the matter is that these companies, too, have shown rather clear-cut signs of economic health.

Consider the situation in St. Louis, where the Post-Dispatch and the Newhouse chain of newspapers have entered a joint operating agreement. In 1968, the Post-Dispatch had excess funds with which to purchase two television stations—KVOA-TV in Tucson, Ariz., and KOAT-TV in Albuquerque, N. Mex.—for a combined price of $18 million. Newhouse, meanwhile, in 1967 paid a record price for a single newspaper property—$53.4 million for the Cleveland Plain Dealer.

Or consider the Cox and Knight chains which have entered a joint operating agreement in Miami, Fla. Cox in 1964 paid $20.5 million for WIIC-TV in Pittsburgh, then the highest price ever paid for a single television station. Knight in 1969 bought the Macon, Ga., Telegraph & News for $13 million. And both companies have made several other acquisitions in recent years.

Consider, also, the actual operating record of two joint agreement papers which would be aided by this bill. Because these papers are owned by Lee Enterprises, Inc., itself a publicly owned company, actual operating figures are in fact available. The companies in question are Madison Newspapers, Inc., in Madison, Wis., and the Journal-Star Printing Co., in Lincoln, Nebr. The former company in 1968 had a rate of return on shareholders' equity of 22 percent. The latter, a return of 16.4 percent. At the same time, the overall rate of return for Lee Enterprises, Inc., itself was "only" 11 percent. Both of these ostensibly dying papers had a higher rate of return than their very profitable parent company itself.

I have said enough, Mr. President, to document beyond dispute this industry's profitability. There is obviously no need for enactment of this bill.

The only other point I would like to make, is that the absence of any need for and the danger from this bill are clearly perceived by most men and women within the newspaper industry itself.

The simple fact of the matter is that the bill is opposed by almost everybody in the industry except those companies with money interests in its passage.

It is opposed by the National Newspaper Association, a trade association with 7,000 member newspapers from coast to coast. Editorials attacking the bill have appeared in the New York Times, the Washington Post, the Wall Street Journal, the Louisville Courier-Journal, and the New York Post. And they have appeared also in a host of similar papers, from the Santa Monica, Calif., Outlook to the Bayonne, N.J., Times.

These publishers have been joined by their printing trades unions. Resolutions opposing the bill have been passed by the American Newspaper Guild, the International Typographical Union, the Pressmen's Union, and the Amalgamated Lithographers.

There is but one reason that this bill is still alive—the enormous political clout of the media barons whose profits would be bolstered by it.

The total number of media holdings controlled by these companies is simply staggering. They now own 127 daily newspapers in 86 cities in 34 States, 109 broadcasting stations in these and an additional three States, one of the two major world news services—United Press International—and 22 national magazines. These are the total holdings of the men whose ostensibly dying voices this bill is designed to save.

Mr. President, I have already spoken long enough and, if yesterday's votes are any indication, I am doing nothing more than belaboring an obvious truth. There are some joint agreements now in existence—those in the cities of Bristol, Tenn.-Va.; Honolulu, Hawaii—although the Senator from Hawaii has taken exception to this; Nashville, Tenn.; Oil City-Franklin, Pa.; Tucson, Ariz.; and Tulsa, Okla.—the publishers party to which own no media voices other than the papers directly involved. Under the terms of my amendment only those six joint agreements, as well as future agreements involving similarly independent voices, would be legitimized by this bill.

I offer this amendment essentially for two reasons.

First, the alleged purpose of this bill is to save dying editorial voices. It being unlikely as it is to accomplish this purpose, the least we can do is to restrict its application to instances in which such voices are in danger of total extinction.

Second, my amendment is a way of limiting the economic pressures generated by joint agreements. These pressures, for reasons I discussed yesterday, have the potential for killing off far more media voices than such agreements will ever save. If newspaper chains and multimedia companies were permitted to take part in such agreements, these pressures would be generated in a host of communities throughout the country, and the already serious trend to media concentration within our country would only be intensified.

Mr. President, I offer this amendment to help preserve the multiplicity of diverse and antagonistic media voices on which the welfare of all of us so sorely depends.

I yield to the Senator from Virginia.

Mr. BYRD of Virginia. Mr. President, it is not my purpose to argue either for or against the amendment offered by the distinguished Senator from New Hampshire. I will explain why in a little while.

First, I should like to get a better understanding of the amendment offered by the Senator from New Hampshire. As I understand the amendment, it would eliminate from the pending bill any newspapers which are considered by the amendment to be chain newspapers, and that is defined by the amendment as being any individual or group that owns two or more newspapers or owns a newspaper plus a broadcast facility.

Is my understanding of the Senator's amendment correct?

Mr. McINTYRE. The Senator's understanding is correct. This bill grants an exemption from the antitrust laws of the United States to all the joint operating agreements now in existence. My amendment cuts back on the scope of this exemption and makes it available only to truly independent media voices.

It would be denied, in other words, to the Newhouse chain, the Hearst chain, and other media barons who in my opinion are in the process of gobbling up all the independent media voices left in the country.

The Senator's understanding of my amendment is indeed correct.

Mr. BYRD of Virginia. I thank the distinguished Senator from New Hampshire.

I feel that I should make a statement

in regard to this bill and to the pending amendment. I find myself——

Mr. McINTYRE. If the Senator from Virginia will permit me to interrupt him at this point, I would like to ask for the yeas and nays on my amendment. Then I shall yield the floor.

Mr. BYRD of Virginia. Of course.

Mr. McINTYRE. Mr. President, I ask for the yeas and nays on my amendment.

The yeas and nays were not ordered.

Mr. McINTYRE. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. McINTYRE. Mr. President, I ask for the yeas and nays on my amendment.

The yeas and nays were ordered.

Mr. McINTYRE. Mr. President, I yield the floor.

Mr. BYRD of Virginia. Mr. President, I feel it appropriate to make a statement in regard to the pending amendment and the pending legislation.

I shall not argue for or against either the amendment or the legislation.

Perhaps I am the only Member of the Senate who is closely associated with the newspaper business. For most of my adult life I have been a newspaper publisher. I think that the record should show, during debate on this legislation, that I have and do now own a substantial interest in two daily newspapers. One of those newspapers owns a third newspaper.

So far as the pending legislation is concerned, I see no conflict of interest. The newspapers are separated and operate in different communities. They do not operate jointly.

Insofar as the amendment offered by the distinguished Senator from New Hampshire is concerned, I feel that I do see a conflict of interest. His amendment would specify that where a group or an individual owns more than one newspaper, or a newspaper and a broadcast facility, that under those conditions the provisions of the bill would not apply.

Under the definition of the amendment offered by the Senator from New Hampshire, I suppose that I would be considered a chain newspaper owner. But I believe that would not be in the accepted sense, since my papers are small papers, and are separated by many miles from one community to the next.

Nevertheless, I do see in the wording of the Senator's amendment a possible conflict of interest.

Therefore, when the vote is called on the amendment offered by the Senator from New Hampshire, I shall ask to be recorded as being "present."

Mr. President, regarding the pending legislation, I do not see any possible conflict of interest. The newspapers which I own have no operating arrangements such as do the 22 newspapers which the pending bill would specifically cover.

Let me say a word about the newspaper business. I regret very much to see the disappearance of newspapers throughout the Nation. It is tragic that in the greatest city of our Nation and one of the greatest cities in the world—New York City, there are only three daily newspapers; namely, the New York Times, and the New York Daily News in the morning, and the New York Post in the afternoon.

It was only 20 years ago, give or take a couple of years, that there were eight daily newspapers in New York.

In the intervening years—which is a short period of time—the New York World Telegram, the New York Sun, the New York Herald-Tribune, the New York Journal-American, and the New York Mirror have all gone out of existence.

Thus, where that great city of 8 million population once had eight daily newspapers as recently as 20 years ago, they now have only three. The economics of the newspaper business eliminated the other five.

Mr. President, I think that the distinguished Senator from Rhode Island yesterday, in his speech, pointed out that one of the great problems facing the newspaper industry is the extent to which television has cut into the revenues of newspapers.

In regard to the joint operating arrangements which have been entered into by some 22 newspapers—and since two are involved in each case, we might say that is 44 newspapers—I do not know the situation in all of those cases, but I do know the situation in some of them.

In Nashville, Tenn., there are two newspapers, the Nashville Banner and the Tennesseean, where the editorial and news competition between the two is, perhaps, greater than in any city that I know of. They are entirely competitive.

Of the two newspapers in Miami, Fla., if the joint arrangement referred to had not been entered into, the strong paper, the Miami Herald, very likely would be the only remaining newspaper in Miami.

The Miami Herald has had, for a long time, the second highest volume in advertising lineage of any paper in the country. It is a strong newspaper.

What the operating arrangements tend to do is to help the weak newspaper and not the strong newspaper. It keeps the weak newspaper in the community in business.

As I mentioned at the outset, I do not propose to argue for or against the McIntyre amendment. I shall vote "present" when the vote is taken on it.

As to the bill itself, I do not propose to argue its pros and cons, but I do think it appropriate to make these few remarks in regard to the newspaper industry in general.

My own philosophy of a newspaper is that it ought to be handled as a public trust. I feel it is a semipublic utility and ought to be handled in such manner.

I submit that over a long period of time the best way for a newspaper to prosper, and the best way for the owners to prosper is to put out a good product. It must have the confidence of the public. If a newspaper's publisher does put out a good product, I believe that his paper over the years will prosper.

I believe very strongly that a newspaper should be handled as a public trust and operated as a public trust.

I, along with many other Senators, regret to see more and more newspapers falling by the wayside.

The PRESIDING OFFICER (Mr. NELSON in the chair). The Senator from Hawaii is recognized.

Mr. FONG. Mr. President, I rise to urge defeat of the amendment of the distinguished Senator from New Hampshire. The amendment provides that the antitrust exemption provided in the pending bill, S. 1520, shall not be available to any paper that is owned by a newspaper chain or is in any way affiliated with radio and television stations.

For all practical purposes, this amendment would gut the bill, which is designed to provide antitrust exemption, under certain narrowly prescribed circumstances, for newspapers that are financially failing or in danger of failing who enter into joint operating agreements with another newspaper in the same community so as to reduce expenses and preserve independent news and editorial voices for the people of the community.

At present, there are joint operating agreements in 22 cities throughout the Nation.

The pending bill, as recommended by the Senate Judiciary Committee, seeks to provide a remedy to help keep alive newspapers that would be in precarious financial straits and would fold if they had to abandon their joint operations.

With S. 1520, the committee proposes a way to preserve separate and distinct news and editorial services for the millions of Americans in 22 communities.

The pending amendment, offered by the junior Senator from New Hampshire (Mr. MCINTYRE) would afford antitrust exemption only to six communities, according to the sponsor. Yesterday, he listed these as Bristol, Tenn.-Va.; Honolulu, Hawaii; Nashville, Tenn.; Oil City-Franklin, Pa.; Tucson, Ariz., and Tulsa, Okla.

Actually, under the amendment the joint operating agreement between Hawaii's two leading dailies, the Honolulu Star-Bulletin and the Honolulu Advertiser, would not be exempt. For very recently the Honolulu Star-Bulletin purchased a newspaper on Guam.

Thus, because the Star-Bulletin owns the Guam paper its joint operating agreement would not qualify for antitrust exemption. For the McIntyre amendment defines a newspaper owner entitled to exemption as "a person who owns or controls a single newspaper publication, but who A does not own or control directly, or indirectly through separate or subsidiary corporations, any other newspaper publication or any other radio or television station."

If the joint operating agreement between the Advertiser and the Star-Bulletin is not accorded antitrust exemption, the two papers will have to separate their production, printing, advertising, and distribution operations.

In the 5 years that these two papers operated separately prior to their joint operating agreement, the Advertiser showed substantial losses in 3 of those years, according to testimony before the Antitrust and Monopoly Subcommittee.

The book profits shown in the other

2 years were due in one instance to sale of a special statehood edition and in the other to drastic cuts in expenditures. These cuts produced a profit on the books but actually further weakened the advertising and circulation position of the Advertiser, according to its publisher.

So precarious was the Advertiser's financial posture that the publisher had only three choices: liquidation, sale to his competitor, the Star-Bulletin, or function with a joint operating agreement.

If the joint operating agreement cannot continue, the Advertiser's choices may well be only two: Liquidation or sale to the Star-Bulletin.

This would mean Honolulu would lose its morning daily newspaper, leaving only the afternoon paper, the Star-Bulletin.

Just because the Star-Bulletin owns the Guam paper—located 3,300 miles from Hawaii—the people of Honolulu would be deprived of one of their two excellent daily papers, which offers differing news and editorial comment from the Star-Bulletin. Indeed, all 800,000 people of my State would be deprived of the Advertiser, for the Advertiser and Star-Bulletin serve all the Islands of Hawaii.

The McIntyre amendment would, therefore, afford antitrust exemption to only five communities, instead of 22 as the bill recommended by the Judiciary Committee provides.

Mr. President, as I said yesterday, I believe Hawaii is a viable, dynamic, alert, progressive State, thanks in large measure to the invaluable services of our two Honolulu daily newspapers. Under the joint operating agreement, the Advertiser and Star-Bulletin are keenly competitive in news reporting and editorial analysis. Such competition serves the people of Hawaii well.

I am convinced the people of Hawaii are better served by this arrangement than they would be by a monopoly of a single major newspaper, which would result if the McIntyre amendment carries.

But I do not urge my colleagues to reject the McIntyre amendment solely because it would hurt Hawaii.

I urge them to reject it because the testimony before the Senate Antitrust and Monopoly Subcommittee, on which I serve, showed that just because a failing newspaper is owned by a prosperous chain is no insurance against its demise.

The testimony of Mr. Jack R. Howard, president and general manager of Scripps-Howard Newspapers, makes clear a chain newspaper that is in the black overall cannot forever underwrite one of its newspapers that is failing.

In 1967, Mr. Howard testified as follows:

Scripps-Howard is aware, painfully aware, of what happens to a newspaper caught in the squeeze between rising costs and declining revenues. During the past three years (July 1967) we have reluctantly suspended three newspapers: The Houston Press, the Indianapolis Times, and the New York World Telegram and Sun.

In Houston, Texas, the Houston Press lost substantial and increasing amounts of money from 1958 through 1963. . . . We made efforts over a period of time to work out some sort of joint arrangement with each of the other papers but were unable to do so. The alternatives that remained were either to suspend publication or to sell the newspaper. We sold to the Houston Chronicle in 1964.

In Indianapolis, Indiana, the Indianapolis Times, an evening and Sunday paper, lost money for more than a decade. Discussion which might have led to a joint arrangement came to naught. The same result attended our efforts to sell the newspaper, and finally the paper was suspended in the fall of 1965.

In New York City, Scripps-Howard's New York World Telegram and Sun had experienced heavy losses for a number of years.

A consolidation was effected with the New York Journal American and the Herald Tribune.

So there we see, Mr. President, that even Scripps-Howard, which overall was in the black, could not save some of its affiliate-newspapers who were in the red.

If the McIntyre amendment carries, the joint operating arrangements that Scripps-Howard now has would be in jeopardy in Albuquerque, N. Mex.; El Paso, Tex.; Evansville, Ind.; Birmingham, Ala.; Knoxville, Tenn.; Columbus, Ohio, and Pittsburgh, Pa.

Those are communities which may lose one of their daily newspapers if the McIntyre amendment passes.

The testimony of Mr. G. O. Markuson, executive vice president of the Hearst Corp., related to our Antitrust Subcommittee the similar experience of the Hearst chain.

On page 592 of volume 2 of our 1967 hearings, Mr. Markuson said:

The Hearst Newspapers have been, and presently are, located in metropolitan centers. They have, therefore, been subjected to the same economic pressures which generally have plagued other urban newspapers. These extreme economic factors initially transformed certain of the Hearst Newspapers into unprofitable ventures, and ultimately, into failing newspapers. It was only after every reasonable alternative was explored and exhausted that business necessity and prudence caused the Hearst organization: to sell the Chicago American in 1956; to sell the Pittsburg Sun Telegram in 1960; to sell the Detroit Times in 1960; to suspend publication of the Morning Los Angeles Examiner in 1962; to sell the Milwaukee Sentinel in 1962; to suspend publication of the New York Mirror and to sell certain of its assets in 1963 to enter into a joint newspaper operating arrangement in San Francisco in 1965; and to consolidate the New York Journal-American with the New York World Telegram and Sun and the New York Herald Tribune, forming the New York World Journal Tribune in 1966, which thereafter was forced to suspend publication in 1967.

It is precisely because of such testimony that the judiciary made controlling in S. 1520 the fact of whether or not a newspaper in a particular given city is failing and, if it is failing, to accord that newspaper the opportunity to save itself through a joint operating arrangement, regardless of its ownership or affiliation.

Mr. President, an amendment was offered during Judiciary Committee consideration of S. 1520 to strike from the definition of "failing newspaper" the phrase "regardless of its ownership or affiliation."

This would have had much the same effect as the McIntyre amendment; that is, it would not provide antitrust exemption for a failing newspaper that was affiliated with or owned by other newspapers. The amendment was rejected by the committee.

The question of whether a newspaper is failing should be based upon the financial operations of that paper and not upon the presence or absence of financial help from other newspaper activities of the owner or from other newspaper activities of other cities.

If the words "regardless of its ownership or affiliations" are stricken from S. 1520 as the McIntyre amendment proposes, a court could find that a newspaper was not "failing" as long as the owners of a paper had other resources which could be invested in that newspaper. To follow that to its ultimate conclusion, the owners would have to invest all other funds in the failing newspaper until there was nothing left to invest.

The test would be not whether the newspaper was failing, but whether the owners of the newspaper were themselves failing.

As the testimony showed, even the big newspaper chains cannot afford to go on and on indefinitely pouring money into one of their papers that is losing money.

As a practical economic matter, the chains—just like the single owners—eventually confront the decision of whether to continue to waste their assets in a losing paper, or sell out to a competitor, or close down the paper itself.

Mr. President, we should recognize the McIntyre amendment for all practical purposes negates the purpose of the pending bill, S. 1520, which is to help give the people of 22 communities an opportunity for choice of ideas and analyses by preserving differing news and editorial newspaper voices in the community.

If the McIntyre amendment is approved, only five cities could receive such assistance in preserving one of their major daily newspapers.

The capital city of Honolulu in my State would face deprivation of its morning English-language daily.

For all these reasons, I urge Senators to vote against the McIntyre amendment.

Mr. McINTYRE. Mr. President, I would like to take issue on this point with the Senator from Wisconsin (Mr. NELSON). While I agree with him that further legislation is necessary, I feel that my amendment itself is essential if we are to come to grips with media concentration.

I do not know whether the antitrust exemption afforded by this bill is needed to save dying newspapers. I frankly doubt it. I do know that it will transform newspapers taking advantage of it into highly profitable enterprises, enterprises with enough excess cash to go out and gobble up other media voices. That is what has just happened in Hawaii. Two weeks ago one of the papers there bought out an independent paper on the island of Guam. If this use of excess cash to gobble up independent voices continues obviously media concentration will be accentuated.

My amendment would prevent this.

First, it would say to papers which are now independent: "Go ahead, enter a joint agreement, but you will not be able

to use the profits to buy additional media outlets."

Second, it would say to companies which have already bought up many independent outlets: "You may not enter such agreements unless you sell off all your other properties. And if you do this, you will also be denied later the use of the resulting profits to ever get them back."

Mr. President, I think this is a good amendment. It would keep small companies small and it would also directly affect the big boys. I must take issue with the Senator from Wisconsin (Mr. NELSON) when he says it does not affect these big boys.

(At this point, Mr. GORE assumed the chair as the Presiding Officer.)

Mr. NELSON. Mr. President, I wonder if the Senator from New Hampshire will yield for a question?

Mr. McINTYRE. I yield.

Mr. NELSON. Just so I understand the amendment of the Senator from New Hampshire, to take a hypothetical case—I am not thinking of anyone in particular—if two independents had a joint operating agreement and one of those independent newspapers owned a radio station, do I understand that in order to take advantage of the benefits of the law, if the bill passes, and continue the joint operating agreement, the one that owned the radio station would have to give up the radio station or sever the joint operating agreement?

Mr. McINTYRE. That is correct.

Mr. NELSON. What puzzles me about it is that we could name a whole series of situations in this country where giant concerns own radio, TV, and two newspapers at the same time. From the standpoint of media, and control of information that is a much more serious situation than the case of two newspapers with a total circulation of 10,000 and a tiny radio station. Yet they are to be told, "You have to give one up," while the much larger combinations remain unaffected.

I just want to express my view that the Congress really is not facing up to the issue at all, and that we are running around with a sledgehammer slugging at gnats. As a matter of fact, there ought to be a bill before the Senate that provides no newspaper can own any other news media. If we are striving for independent editorial voices, if we are trying to secure in the public of this country a sense of fairness, and the knowledge that they are having diverse opinions presented, then we had better tell every newspaper that it must within a certain period terminate its relationship to any other media. I think a radio station should be independent from a TV station or newspaper, and a TV station should be independent from radio or newspapers and newspapers ought to be independent from radio and TV. If that were done, then there would be true independence of the media. Then we would be sure we are hearing independent voices.

If we are going to successfully defend freedom in this country we must do all in our power to assure that the news sources and media are independent and competitive.

On the day when a bill is enacted on the floor that will require all newspapers in this country to give up their interests in all other news media, we will have accomplished something.

I cannot see telling one tiny newspaper with a circulation of 10,000 that owns a little radio station, "You have to get rid of it," while at the same time we allow the giants to own radio and TV stations just because we are afraid to tackle them. The Federal Communications Commission could have prevented this from happening in the first place. Unfortunately it did not have the courage to stop it and the Congress does not have the courage to require the big newspapers to terminate their interests in competing media. If we did that, we would be doing something significant about guaranteeing the preservation of independent editorial opinion.

Mr. McINTYRE. Mr. President, there is much in the remarks of the Senator with which I agree. I am very concerned with the broader problem of media concentration to which he refers and have introduced a bill in this session, called the independent media preservation bill, designed to get at the heart of it.

I am not wedded to the particular terms of this bill. I would welcome any modifications which the Senator from Wisconsin (Mr. NELSON) might wish to suggest.

Mr. NELSON. All I am saying is that what concerns me is, we talk and talk about monopoly in the news media but we do not undertake to do anything about the really big fellows. I would like to see a bill come out on the floor of the Senate that does that.

I think we are shooting at the wrong target at the moment. I would be glad to endorse the amendment if it were to be applied to all newspapers in America.

Mr. McINTYRE. I am sorry the Senator cannot support my amendment. I at least hope he will vote against this bill. If he is against the monopolization of media voices, he can help prevent it by voting "nay" on this bill.

The PRESIDING OFFICER (Mr. NELSON in the chair). The Senator from Michigan is recognized.

Mr. HART. Mr. President, I am encouraged by the remarks just made by the able Senator from Wisconsin, who is now, in a sense, estopped to say I am not interpreting him correctly because he is in the chair.

As I understand the Senator from Wisconsin, he opposes the proposition that is reflected in this bill, and he regards the McIntyre amendment as not an improvement sufficient to persuade him to support the amendment, with the implication, later, of having to vote yes or no on the bill.

I share with the Senator from Wisconsin the belief that what we are asked to do by this bill is establish a sort of poverty program for the rich. One of the traditional hangups of many Members of this body, when we talk about welfare programs, is, "Well, we are not sure it is a good idea, but if we are going to have a welfare program, let us at least require that the beneficiaries of the program prove that they are entitled to it; namely, that they are in tough straits." The beneficiaries of this welfare program cannot make that case.

Just who is it that seeks this antitrust exemption? How feeble, how weak, how greatly in need are they?

We have been told that 44 newspapers in 22 cities urgently require its passage. We are told that its passage will preserve independent editorial voices.

Of course, along with motherhood and the flag, the preservation of independent editorial voices is a philosophy that all of us can share. The problem is procedural. How do you do it? I think that the mere statement of the objective of the preservation of independent editorial voices is not enough. Let us get a little more specific. Let us identify who it is that we are now assigning a relatively high priority, as we open this new Senate year, to taking care of.

In two cities with joint operating agreements, the publishers have disassociated themselves with efforts to pass this legislation. The advocates of the legislation themselves have said as much in testifying before the House Judiciary Committee. So I am omitting from my description of the beneficiaries of this program those two publishers. They are in Miami, Fla., and Shreveport, La. They say, in effect, "We're big boys. We have got the first amendment protection, and we do not need this. We'll compete, whether or not we are permitted to operate jointly and split profits."

I think they reflect a very high sense of responsibility. They practice, in this situation, all of the high aspirations that the press assigns to itself.

So, for purposes of my comments, then, the identification of the publishers in the 20 remaining cities of the 22 that operate under this agreement which they want to immunize is relevant.

In seven joint agreements, it is Scripps-Howard. They are in Albuquerque, El Paso, Evansville, Knoxville, Birmingham, Columbus, and Pittsburgh.

Scripps-Howard, at the last count that I had, owned 17 newspapers, United Press International, the United Features Syndicate, the Newspaper Enterprise Association, and a handful of broadcast licenses, to wit, in Cincinnati WCPO-TV; in Knoxville KNOX-AM; in Memphis WMC-AM-FM-TV; in West Palm Beach, Fla., WPTV; and 2 percent of WWJ-AM-FM-TV in Detroit, Mich. Not an unimpressive assembly of economic power, or influence, including political.

In two of the agreements, it is Newhouse. One of his is with Scripps-Howard, in Birmingham, and the other with Pulitzer, in St. Louis.

The St. Louis situation deserves, I think, special comment. Both publishers in St. Louis own television stations. Newhouse, which publishes the Globe-Democrat, owns KTVI-TV; Pulitzer, the publisher of the Post-Dispatch, owns KSD-AM-TV.

Until the Subcommittee on Antitrust and Monopoly of the Committee on the Judiciary held those hearings, the eight parts of which are at Senators' elbows, no one knew there was a joint agreement with illegal features in St. Louis. It had been kept secret. At my request, attorneys for the newspapers furnished the committee with a chronology of the events leading up to the agreement, and that chronology indicates clearly that

neither newspaper was losing money. Senators can find that at page 3441 of part seven of the hearings.

In 1959, the papers agreed to joint printing, and we all know that that is perfectly legal. The contract called for a fixed price, and it became clear that it favored the Globe-Democrat, the Newhouse paper. So the Pulitzer Publishing Co., the Post-Dispatch, threatened to terminate the printing contract at the end of its term unless adjustment was made. What was the adjustment? It was a profit-pooling agreement.

Neither Pulitzer nor Newhouse can be said to be in failing condition. In the last 2 years, Pulitzer Publishing Co. has purchased VHF TV stations in Albuquerque and Tucson. The purchase price was over $18 million. It tried to purchase the San Bernardino, Calif., Sun, but was outbid. Two years ago, Newhouse publishing purchased the Cleveland Plain Dealer. That was a cash transaction—$52 million. Newhouse is now attempting to buy the Denver Post.

In addition to the joint agreements in which Newhouse participates, he owns—I am reciting some of holdings of the failing publisher we are concerned about—the Portland Oregonian and Journal, the Huntsville Times and News, the New Orleans Times Picayune and States Item, the Harrisburg Patriot and News, the Jersey City Journal, the Newark Star-Ledger, the Staten Island Advance, the Long Island Press, the Springfield, Mass., Union News and Republican, and the Syracuse, N.Y., Post Standard.

In addition to this economic base, he is the licensee of five UHF stations, seven AM stations, and seven FM stations. Most of them are in markets with a Newhouse newspaper monopoly.

In part 7 of the committee hearings, facing page 3104, there is a map that might be of interest to those who are still evaluating the validity of the proposal reflected in the bill. It shows the pattern of newspaper-television-radio and their interlocks in the cities where these joint operating agreements that we are asked to immunize exist.

I have recited the newspapers and recounted the television and radio licenses that Newhouse owns. Newhouse also is the publisher of Vogue, Mademoiselle, House & Garden, Glamour, Bride's, Analog Science Fact and Fiction, Air Progress, and American Modeler.

I do not want to confuse the debate. We are not asked yet to give immunity to magazines, which also have editorial pages in some cases. It is just joint newspaper agreements which at the moment we are asked to immunize.

The balance sheets and operating statements for the two joint agreements in which Newhouse is a party have not been made public. In fairness, it must be said that the other publishers also have refused to document their poverty. I do not know whether this is from an embarrassment of riches or not. But it would make more logical a case if we had operating figures here to show that there is economic necessity. But I have the feeling that, considering the size of this company, as an example, Congress ought not take this talk of poverty on faith. We really should have the operating figures for this and all others.

The Hearst Corp. is a party to a joint operating agreement in San Francisco. Let us see to what degree this is an element of an economic enterprise that lacks strength or durability. What is the projection of survivability for this one?

Hearst owns the Seattle Post-Intelligencer, the Los Angeles Herald-Examiner, the San Antonio Light, the Baltimore News American, the Boston Record, the Albany N.Y., Times-Union, and the Knickerbocker News.

It publishes these magazines—and again I do not want to mislead; we are not being asked yet to give antitrust immunity to the function of magazines—the American Druggist, Bride-Home, Cosmopolitan, Eye, Good Housekeeping, Harper's Bazaar, House Beautiful, Motor, Motorboating, Popular Mechanics, Science Digest, Sports Afield, and Town and Country.

Hearst owns Avon Books and 5 percent of United Press International. This reminds me to correct my statement that Scripps-Howard owns United Press International. It owns 95 percent of United Press International, and Hearst has the balance.

Hearst holds AM, FM, and TV licenses in Pittsburgh, Milwaukee, and Baltimore. It holds an AM license in San Juan, P.R.

I do not list the foreign magazine interests of the company. Hearst is said to be one of the largest private corporations in America, with interests in real estate, mining, ranching, timber, and farming. But we are told that we had better pass this bill in order to insure the survival of the San Francisco Examiner, which, if anyone has forgotten, is part of this rather impressive recital of economic durability.

The Paul Block Co. shares the Pittsburgh joint agreement with Scripps-Howard. The Block Co. owns WFW-AM-FM in Pittsburgh, the Toledo Times and Blade, and the Red Bank, N.J., Register.

The next of these joint operating agreements, of the 20 I have said we ought to be sure we understand, is Lee Enterprises. Lee is party to two joint agreements, one in Lincoln, Nebr., and the other in Madison, Wis. Lee also owns six newspapers in Montana. In addition, it owns the Mason City, Iowa, Globe Gazette; the Clinton, Iowa, Herald; the Davenport Times Democrat; the Muscatine, Iowa, Journal; the Ottumwa, Iowa, Courier; the Hannibal, Mo., Courier-Post; the La Crosse, Wis., Tribune; the Racine, Wis., Journal-Times; four television stations; and seven radio stations. But we should pass this bill in order to secure the survival of one element in this rather impressive array of economic and political power.

In Columbus, Ohio, the joint operating Columbus Dispatch is owned by the Wolf family. It is my understanding, and study confirms, that the family is the largest landholder in the State of Ohio. It controls Bankohio Corp., which is a bank holding company. The family also owns AM, FM, and TV stations in Columbus, Ohio.

The other party to the Columbus agreement is Scripps-Howard. There is a real "lulu," and are told that unless we pass this bill one of these will fail.

Now I address myself—as I rarely do—to the press gallery, because clearly they are more knowledgeable in this area—although I am sure most Senators would hate to confess it—than perhaps even we. They have a fairly strong "feel" for the forces which are operating at the moment, even though there was little reporting of the hearings contained in the seven volumes of the antitrust proceedings. Perhaps I am not able to make a news judgment. Perhaps their judgment is that unless testimony in the hearings is in favor of the bill, there is very little news value in the recital by the opposition. But, that is the way the news columns work out.

Now one of these 20 joint agreements that we should identify is in Utah, in Salt Lake City. One of the papers is owned by the Mormon Church, which owns also KSL-AM-FM-TV, in Salt Lake City, and the Tribune Co., the other party to that joint operation, which owns 35 percent of KUTV in Salt Lake City.

The remaining 65 percent of KUTV is owned by the Glassman Hutch family which owns the Ogden Standard Examiner, too.

In summary, therefore, of the 20 cities with publishers pressing for this bill, 11 have chain ownership and in seven of those cities, one or both of the parties to the joint agreement own one or more broadcasting license or television license in that same city.

In the remaining nine cities, one has two publishers, each of whom owns a broadcasting station in the same market, and one of which owns an AM station in the same market.

Thus, if my arithmetic is correct, seven of them remain who could be said to be independent—that is, independent of all the auxiliary activities.

The McIntyre amendment recognizes the economic facts of life with respect to the 13 who are in an economic position which would be envied by most Americans. Given the economic strength of those 13 in any other activity, we would not expect them to come in and ask for antitrust immunity. Indeed, most of them would be wondering whether the Justice Department is worried that they have exceeded the proper limits.

Mr. President, I offer for the RECORD the following list of joint agreement newspapers identifying their ownership and their broadcast properties and ask unanimous consent that it be printed at this point in the RECORD.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

LIST OF JOINT AGREEMENT NEWSPAPERS

ALBUQUERQUE, N. MEX.

Scripps-Howard: Tribune (mS).
C. T. Lang: Journal (e).

BIRMINGHAM, ALA.

Newhouse: News (eS); Newhouse Broadcasting Co., licensee of WAPI-AM-FM-TV.
Scripps-Howard: Post-Herald (m).

BRISTOL, TENN.

Eugene Worrell: Herald Courier (mS).
Herman Giles: Virginia Tennessean (e).

CHARLESTON, W. VA.

Charles Mail Assoc. (Lyell Clay): Daily Mail (e); Clay Bcstg. Co., licensee of WWAY-TV, Wilmington, N.C.

W. E. Chilton III: Gazette.

COLUMBUS, OHIO

Scripps-Howard: Citizen Journal (m).

Dispatch Printing (Robert Wolfe Family): Dispatch (eS); Radio Ohio Inc. (98%), licensee of WBNS-AM-FM; WBNS-TV Inc. (100% subsidiary), licensee of WBNS-TV.

EL PASO, TEX.

Scripps-Howard: Herald-Post (e).

Dorrance Roderick: El Paso Times (mS).

EVANSVILLE, IND.

Scripps-Howard: Press (e).

William Caddick: Courier (m).

FORT WAYNE, IND.

News Publishing Co., Inc. (Helene Foellinger): News Sentinel (e); News-Sentinel Bcstg. Co. (100% subsidiary), WGL-AM.

Journal Gazette Co. (James Fleming): Journal-Gazette (mS).

HONOLULU, HAWAII

Advertiser Publishing Co. (Twigg-Smith): Advertiser (m).

Honolulu Star Bulletin, Inc., (Chinn Ho): Star Bulletin (e).

KNOXVILLE, TENN.

Scripps-Howard: News Sentinel (eS); Scripps-Howard Bcstg. Co., licensee of WNOX-AM.

Roy Lotspeich Pub. Co., Inc.: Journal (m).

LINCOLN, NEBR.

Lee Enterprises: Star (m).

Joe Seacrest: Journal (e).

Journal-Star Printing Co.: The joint operating agreement, owns 48.86% of KFAB Broadcasting Co., Omaha, Neb., licensee of KFAB-AM-FM.

MADISON, WIS.

Lee Enterprises: Wisconsin State Journal (mS).

Capital Times Co. (William Evjue): Capital Times (e); 100% owner of Badger Bcstg. Co., Inc., licensee of WIBA-AM-FM.

MIAMI, FLA.

Cox Bcstg Corp.: Miami News (e); Miami Valley Bcstg Corp. (100% subsidiary), licensee of WIOD-AM-FM.

Knight: Herald (mS).

NASHVILLE, TENN.

Banner Pub. Co. (James Stahlman): Banner (e).

Nashville Tennessean (Amon C. Evans): Tennessean (mS).

OIL CITY-FRANKLIN, PA.

News Herald Printing Co.: News Herald (e).

Derrick Pub. Co.: Derirck (m).

PITTSBURGH, PA.

Scripps-Howard: Press (eS).

Post Gazette Pub. Co. (Block Family): Post Gazette (m): WWSW Radio, Inc. (100% subsidiary), licensee of WWSW-AM-FM. P.G. Pub. Co. is subsidiary of Toledo Ohio Blade Co.

SALT LAKE CITY, UTAH

Mormon Church—Deseret Pub. Co.: Deseret News (e); Bonneville International Co.: KSL, Inc. (92.7% subsidiary), licensee of KSL-AM-FM-TV; KMBZ & KMBR-FM, Kansas City, Mo.; Kiro, Inc. (98.81%), licensee of KIRO-AM-FM-TV, Seattle; N.Y. Worldwide, Inc. (100%), licensee of WRFM-FM & WNYW (international short wave), New York City; Idaho Radio Corp. (41%), licensee of KID-AM-FM-TV, Idaho Falls; Boise Valley Broadcasters, Inc. (6.2%), licensee of KBOI-AM-FM-TV, Boise, Idaho.

Kearns Tribune Corp. (65% Glassman Family): Salt Lake City Tribune (mS); KUTV, Inc., Licensee of KUTV-TV.

ST. LOUIS, MO.

Newhouse: Globe Democrat; Newhouse Bcstg Co., licensee of KTVI-TV.

Pulitzer Pub. Co.: Post Dispatch; Licensee of KSD-AM-FM; 100% owner of KVOA Television, Inc., licensee of KVOA-TV, Tucson, Ariz.

SAN FRANCISCO, CALIF.

Chronicle Publishing Co.: Chronicle (m), licensee of KRON-FM-TV.

Hearst: Examiner (e).

SHREVEPORT, LA.

Times Publishing Co.: Times (mS); International Bcstg. Corp. (100% subsidiary), KWKH-AM-FM.

Journal Publishing Co.: Journal (e); 59% owner of KSLA-TV.

SPOKANE, WASH.

Cowles: Spokesman Review (mS).

Spokane Chronicle Co.: Daily Chronicle (e); KHQ, Inc. (100% subsidiary), licensee of KHQ-AM-FM-TV.

TUCSON, ARIZ.

William Small Jr.: Citizen (e); Star (mS).

Mr. HART. Mr. President, as we all well know, it is the first amendment to the Constitution which gives the firm order to Government not to take any steps which limit the freedom of the press.

It is the banner flying at the top of the standard of those who support the so-called Newspaper Preservation Act.

But it is another section of that amendment—and how that section applies in this situation—which has bothered me greatly since the father of this bill was introduced in the last Congress. This is the guarantee of the "right of the people to petition the Government for redress of grievances."

If it is possible to equate such things, this "right" may be more important than the "right" to a free press. For it assures that the voice of one individual will be heard by his representatives. It is one of the keystones that makes this a democracy—a government of, by, and for the people.

The goal of this section of the amendment was that there need be no "silent majority" in the United States. Each citizen would have equal access to his representatives and each man's opinion would be given equal weight.

But things have been a bit different during the "petitioning" that has been going on for this bill. Principal petitioners have not been individuals. They have been spokesmen for corporations. And we have been dealing with special corporations—those which controlled the megaphone which politicians must use these days to get their message through to the voters.

While I allow that this Congress is composed of noble men—men who would wrestle mightily to be fair in all circumstances—I cannot ignore that we still all are men, with the attendant frailties.

And I know that newspaper publishers—television station owners—magazine publishers—it is important that in this situation they are frequently one in the same—none of them are exempt from the same frailties.

So I have been wrestling with a question a good bit during these past 2 years.

The question is: How close can reality come to the ideal in some circumstances? The nuances are subtle—and this may explain why I have not yet come up with an answer.

But let us pause to contemplate two vignettes.

In the first, an elected representative is seated in his office. A visitor is announced. He is a private citizen—perhaps the journalism professor from a high school back home.

His visit is brief and his "petition" succinctly put. He would like the representative to oppose the Newspaper Preservation Act because for reasons he spells out he feels the bill "restricts" rather than "broadens" the freedom of the press.

The representative promises to consider his views and ushers the guest out.

A second visitor is announced. This time he is an internationally known columnist for a large newspaper syndicate. He chats with the representative—raises the possibility of mentioning some of his work is an upcoming column and prepares to leave.

As he rises to go, almost as an afterthought, he inquires if the representative has had a chance to study the Newspaper Preservation Act. Informed, the man has taken more than a casual glance at it, the visitor slides away from the topic but in doing so mentions how much the home office hopes the bill will be enacted since they feel it means survival for them.

Both of these visitors, we know are equal under the Constitution. But the tough question is whether the second man was not "more equal" than the first. Another question is what decision will the elected representative come to on the newspaper bill when he is weighing the arguments which have been presented to him.

Perhaps the more basic question is whether the guarantee of "freedom of the press" does not bear with it the responsibility not to use that freedom to intimidate—directly or otherwise.

Or, maybe it is only another question of conflict of interest—something frequently discussed in newspaper editorial pages.

Mr. President, why blink the fact. The "fantasy" visit of the columnist to the politician's office was no "fantasy." Nor was this example an exception to prove the rule.

The lobbying which has been going on for this bill on Capitol Hill could well have set new records. Maybe that is as it should be—maybe newspapers are not only corporations but collections of individuals. Maybe they should be wandering the Halls of Congress fighting for a bill which serves their self-interest. Maybe we cannot say "you are guardian of a very special constitutional guarantee and you must be circumspect in how you use that responsibility."

Maybe we cannot expect them to lecture politicians from the editorial pages—in public view—instead of in closed rooms.

Maybe we are unrealistic to question news judgment which in the majority of the cases deemed the hearings on this bill were news only when publishers supporting it testified. Maybe their readers do not have any interest in a bill which would lock in existing publications and lock out newcomers.

Maybe a politician is being sold a bill

of goods when he thinks how a newspaper back home feels about him affects the final vote count. Maybe newspapers which support this bill are just as eager to give banner play to views—on this or other subjects—of politicians who oppose it.

Maybe I will never figure out the answers to these questions.

And just maybe I am foolhardy to do my thinking out loud.

Mr. President, I believe the McIntyre amendment deserves our support. At least it will improve the bill to the extent that it will narrow the granting of antitrust immunity to those without the independence resources of Scripps-Howard, Hearst, and Lee, Newhouse and the other mass media owners which I have listed.

Mr. President, I had taken the position that the bill could not be redrafted so as to achieve the goal of preserving free editorial voices without stifling would-be new voices coming into these communities.

I am not persuaded, even now, that with the McIntyre amendment we will have avoided that danger. But, if we are going to have a bill the amendment will improve it. And, given the batting order I have just recited, one would not be surprised if the majority agreed that we should have the bill.

We can improve it by trimming it back to those somewhat less affluent, to those somewhat less broadly based to the really independent voice rather than those who might be included within the reach of the bill as the committee reported it.

I am reminded that the Antitrust Committee heard from a young publisher who was attempting to compete in a market which had a joint agreement. He said:

> If you plant a flower on the University of California's property, or loose an expletive on Vietnam, the cops run out of the chute like broncos, but if you are a big publisher and you violate the antitrust laws for years and you emasculate your competition with predatory practices and drive the newspapers out of business, then you are treated as one of nature's noblemen.

Mr. President, let us not be in a position of enacting legislation which would confirm that young man's impression. We can make it less likely by adding the McIntyre amendment to the pending bill.

I support the amendment and urge its adoption.

Mr. GRIFFIN. Mr. President, I must say that, in many respects, the McIntyre amendment holds out considerable appeal.

I, too, am concerned about the proliferation of situations where there is common ownership among newspapers, radio, and television stations.

But, in this bill, it seems that we are beginning to mix apples and oranges.

The control and regulation of radio and television stations is under the Federal Communications Commission. In the Senate, it is under the control of the Committee on Commerce.

I am, therefore, reluctant to support the amendment under these particular circumstances.

Mr. President, if the debate has run down and there is no one else who wishes to speak further on the McIntyre amendment, it would be my intention, because of these considerations and the fact that procedural questions are involved, as well as jurisdictional questions, and that it does not seem to be appropriate to vote on the merits, I intend to offer a motion to table the pending amendment.

Mr. President, I do move to table the pending amendment.

The PRESIDING OFFICER. The question is on agreeing to the motion to table the amendment of the Senator from New Hampshire.

Mr. BYRD of West Virginia. Mr. President, I ask for the yeas and nays on the motion to table.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to table the amendment of the Sentor from New Hampshire. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The bill clerk called the roll.

Mr. MANSFIELD (after having voted in the affirmative). Mr. President, on this vote I have a pair with the distinguished Senator from Arizona (Mr. GOLDWATER). If he were present and voting, he would vote "yea." If I were permitted to vote, I would vote "nay." Therefore, I withdraw my vote.

Mr. BYRD of West Virginia (after having voted in the negative). Mr. President, on this vote I have a pair with the distinguished Senator from Connecticut (Mr. DODD). If he were present and voting, he would vote "yea." If I were permitted to vote, I would vote "nay." Therefore, I withdraw my vote.

Mr. KENNEDY. I announce that the Senator from Idaho (Mr. CHURCH), the Senator from Connecticut (Mr. DODD), the Senator from Missouri (Mr. EAGLETON), the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Alaska (Mr. GRAVEL), the Senator from Minnesota (Mr. MCCARTHY), the Senator from Wyoming (Mr. MCGEE), the Senator from Connecticut (Mr. RIBICOFF), the Senator from Maryland (Mr. TYDINGS) are necessarily absent.

I further announce that the Senator from Montana (Mr. METCALF) is absent on official business.

I further announce that, if present and voting, the Senator from Missouri (Mr. EAGLETON) would vote "yea."

Mr. GRIFFIN. I announce that the Senator from Colorado (Mr. ALLOTT), the Senator from Kansas (Mr. DOLE), the Senator from Arizona (Mr. GOLDWATER), the Senator from Vermont (Mr. PROUTY), the Senator from Pennsylvania (Mr. SCHWEIKER), the Senator from Illinois (Mr. SMITH), and the Senator from Texas (Mr. TOWER), are necessarily absent.

The Senator from Maryland (Mr. MATHIAS), the Senator from Oregon (Mr. PACKWOOD) and the Senator from Ohio (Mr. SAXBE) are absent on official business.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

If present and voting, the Senator from Colorado (Mr. ALLOTT), the Senator from South Dakota (Mr. MUNDT), the Senator from Texas (Mr. TOWER), the Senator from Kansas (Mr. DOLE) and the Senator from Illinois (Mr. SMITH) would each vote "yea."

The pair of the Senator from Arizona (Mr. GOLDWATER) has been previously announced.

The result was announced—yeas 63, nays 13, as follows:

[No. 24 Leg.]

YEAS—63

Allen	Goodell	Moss
Anderson	Gore	Murphy
Baker	Griffin	Pastore
Bayh	Gurney	Pearson
Bellmon	Hansen	Percy
Bennett	Harris	Proxmire
Bible	Hartke	Randolph
Boggs	Hatfield	Russell
Brooke	Holland	Scott
Cannon	Hollings	Smith, Maine
Case	Hruska	Sparkman
Cook	Inouye	Spong
Cooper	Jackson	Stennis
Cranston	Javits	Stevens
Curtis	Jordan, N.C.	Symington
Dominick	Jordan, Idaho	Thurmond
Eastland	Long	Williams, N.J.
Ellender	Magnuson	Williams, Del.
Ervin	McClellan	Yarborough
Fannin	Miller	Young, N. Dak.
Fong	Montoya	Young, Ohio

NAYS—13

Aiken	Kennedy	Nelson
Burdick	McGovern	Pell
Cotton	McIntyre	Talmadge
Hart	Mondale	
Hughes	Muskie	

ANSWERED "PRESENT"—1

Byrd of Virginia.

PRESENT AND GIVING LIVE PAIRS, AS PREVIOUSLY RECORDED—2

Byrd of West Virginia, against.
Mansfield, against.

NOT VOTING—21

Allott	Gravel	Prouty
Church	Mathias	Ribicoff
Dodd	McCarthy	Saxbe
Dole	McGee	Schweiker
Eagleton	Metcalf	Smith, Ill.
Fulbright	Mundt	Tower
Goldwater	Packwood	Tydings

So Mr. GRIFFIN's motion to table Mr. MCINTYRE's amendment was agreed to.

AMENDMENT NO. 466

Mr. HART. Mr. President, I call up amendment No. 466.

The PRESIDING OFFICER (Mr. BAYH in the chair). The amendment will be stated.

Mr. HART. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

Amendment No. 466 is as follows:

AMENDMENT NO. 466

Beginning with line 8, page 3, strike out all to and including line 11, page 3, and insert in lieu thereof the following:

"(5) The term 'failing newspaper' means a newspaper publication which is in probable danger of failure."

Beginning with line 1, page 4, strike all to and including line 20, page 4, and insert in lieu thereof the following:

"ANTITRUST EXEMPTION

"SEC. 4. (a) It shall not be unlawful under any antitrust law for any person to propose, enter into, perform, enforce, renew, or amend any joint newspaper operating arrangement if, at the time at which such arrangement is or was first entered into, not more than one of the newspaper publications involved in the performance of such arrangement was a publication other than a failing newspaper."

On line 21, page 4, strike the designation "(c)" and insert in lieu thereof "(b)".

Mr. HART. Mr. President, for those of my colleagues who are concerned about the schedule, I think this amendment can be explained rather briefly. It

is my hope that I may be able to make a brief explanation and such reply as seems in order, and that a vote on the amendment can then occur rather quickly.

Mr. President, I ask for the yeas and nays on the amendment.

The yeas and nays were ordered.

Mr. HART. Mr. President, the amendment would have two effects. First, it would clarify the definition of "failing newspapers." Language added in the committee, in the judgment of those of us advancing the amendment, makes it impossible for a court, with any reasonable confidence, to determine what in fact is meant by a "failing newspaper."

This change in definition would bring the language of the bill in line with the desires expressed by the committee in its report. A court would be able to apply as precedent decisions under the Bank Merger Act which uses similar language.

The committee report seeks to clarify the unclear language. But we are always lectured, "Well, a committee report is useful, but there is the language of the bill." Here is an opportunity to eliminate what could become an enormously difficult problem for a court in the event it was confronted with a case arising under this act.

Second, it would remove language added in the committee by the Dirksen amendment which provides that any future joint operating agreement must first, be approved in writing, by the Attorney General. The approval of the Attorney General in writing is required before any future joint operating agreement will be permitted, but there is no provision for an appeal from that decision of the Attorney General. In this sense, I think I speak the concern of publishers who may in the future seek to obtain approval of a joint operating agreement.

The Department of Justice, the Federal Trade Commission, and the Department of Commerce opposed the Dirksen amendments. Commenting on the portion of the Dirksen proposal relating to future agreements, Assistant Attorney General McLaren said:

> It would as I read it give antitrust immunity to agreements already in effect, but would make prospective agreements unlawful unless first approved by the Attorney General on a finding that a failing newspaper was involved.
>
> We oppose this bill for the same reason we opposed S. 1520 and for the additional reason that as a matter of principle we oppose vesting regulatory authority in the Attorney General.
>
> Whether or not particular conduct violates the law, we think, should be decided by the courts and not by a prosecutor.
>
> We also note that under Senator Dirksen's proposal there would be no recourse to the courts from an adverse ruling by the Attorney General.
>
> We know of no precedent for this, and if this bill were adopted as we hope very much that it will not, it certainly would seem that a judicial review of the Attorney General's decision should be provided.

The Commerce Department in its comment had this to say about the Dirksen amendment:

> While we would not object to a requirement that newspapers notify the Justice Department in advance of entering into a joint operating agreement, we believe that a requirement of prior written consent could so delay the implementation of such agreements as to preclude timely relief in situations when a failing newspaper is in need of prompt assistance to survive. Moreover, such a requirement would add nothing essential since the Attorney General under S. 1520 in its original form, would be free to act at any time if he believed that a joint operating agreement was in violation of a provision of antitrust law to which the exemption does not apply.

We would strike that section of the bill and return to the language of the bill as initially introduced, which had no requirement for written approval by the Attorney General.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. HART. I yield.

Mr. JAVITS. Mr. President, I think Senators ought to listen very carefully to the Senator from Michigan. We are going to vote this bill, and amendments which might have tightened it up, as I and other Senators thought, have been snowed under. We had better not go too far, because this is a piecemeal exemption from the antitrust laws, which is unwise. It could place some special group in the country in a unique position, with very wide implications, because this is the communication media.

I think all Senators who intend to vote for the bill ought to vote for the amendment of the Senator from Michigan and listen to him very carefully, in their own interest and in the interest of the security of this piece of legislation, which could turn very sour.

I think the Senator from Michigan is proposing to the Senate, in a lawyer-like way, a method by which at least criterion can be established intelligently for both parties to any such agreement and so there would be protection against serious improvidence which could result from exemption and a cutting out from the antitrust laws in a completely unregulated business.

I say this because there is a technique here—the Senator from Michigan and I have been here a long time—whereby when amendments get snowed under the theory is, "Forget about it; let us vote down this one." I think this amendment is one that is very important, especially for those who want to vote for the bill. I know Senators want to get away, but this is an important measure. I know Senators want to deal with it with the important consideration which it deserves, but it is more vital that Senators listen to the Senator from Michigan, especially those who want to vote for the bill.

Mr. HART. Mr. President, I can only thank my colleague from New York for very graciously touching on the practicalities of the problem. It is likely, except for the voice raised by the Senator from New York, that Senators who feel the bill before the Senate represents a desirable goal will automatically oppose any suggested amendments. As the Senator from New York cautions us, perhaps particularly for Senators who favor the bill, adoption of the amendment would be appropriate and prudent. Do not give the Attorney General an opportunity to say "No," and provide no opportunity for appeal. At least as important, do not define "failing newspaper" in a fashion that will give no relief because of the obscurity to those who, in their judgment, will feel a need for relief under the provisions of the bill.

For those reasons, I hope Senators will vote for the amendment.

Mr. MILLER. Mr. President, will the Senator yield?

Mr. HART. I yield.

Mr. MILLER. Unless I misread the amendment, a problem I can see with respect to it is that the amendment would leave the bill applicable only to agreements already in existence. If it does that, then it leaves hanging in the air future agreements.

It is my understanding that subparagraph (b) on page 4 is designed to not leave future agreements up in the air, but to enable future agreements to be cleared by the Department of Justice. However, if the amendment of the Senator from Michigan is adopted, subparagraph (b) will be dropped.

I would appreciate the comments of the Senator from Michigan on the problem I have suggested.

Mr. HART. Mr. President, as I understand it, the adoption of the amendment would require that any future agreement be the subject of decision by the court as to whether it does, in fact, meet the term of a "failing newspaper."

Mr. MILLER. Mr. President, if I may respond, I can see where that interpretation might be placed upon it, but the bill seeks to cover that phase by subparagraph (b). If the Senator from Michigan knocked out paragraph (b), we would then have a bill which would validate preexisting agreements, but someone who might have similar problems to those who have present agreements, which came up a year or 2 years from now, would not know what to do.

Mr. HART. The amendment restores the original language of section 4 as introduced. At the bottom of page 3, the section 4, that which is stricken, would be reinserted. The printed amendment has the language on page 2, which language is identical with the stricken language of the bill before us.

In both cases, and in the case of the new proposed language, which is the language which was contained in the bill when first introduced, we find the words "It shall not be unlawful for anyone to enter into."

I am satisfied that those who drafted the bill initially seeking antitrust exemptions intended by that phrase "enter into" to insure that agreements that would be entered into, which met the test of the definition here, would be approved. Certainly, those who introduced this legislation initially anticipated that future joint agreements would, under that phrase, be permitted to be entered into, provided the standards established in this bill were met.

Mr. MILLER. I thank the Senator from Michigan.

The PRESIDING OFFICER. The question is on agreeing to the amendment (No. 466) of the Senator from Michigan. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BYRD of Virginia (when his name was called). Present.

Mr. BYRD of West Virginia (when his name was called). Mr. President, on this vote I have a pair with the Senator from Connecticut (Mr. Dodd). If he were present and voting, he would vote "nay." If I were permitted to vote, I would vote "yea." Therefore, I withhold my vote.

Mr. FULBRIGHT (when his name was called). Mr. President, on this vote I have a pair with the Senator from Arizona (Mr. Goldwater). If he were present and voting, he would vote "nay." If I were permitted to vote, I would vote "yea." Therefore, I withhold my vote.

The rollcall was concluded.

Mr. KENNEDY. I announce that the Senator from Connecticut (Mr. Dodd), the Senator from Missouri (Mr. Eagleton), the Senator from Alaska (Mr. Gravel), the Senator from Minnesota (Mr. McCarthy), the Senator from Wyoming (Mr. McGee), the Senator from Connecticut (Mr. Ribicoff), the Senator from Maryland (Mr. Tydings), and the Senator from Texas (Mr. Yarborough), are necessarily absent.

I further announce that the Senator from Montana (Mr. Metcalf), is absent on official business.

I further announce that, if present and voting, the Senator from Connecticut (Mr. Ribicoff) would vote "yea."

I further announce that, if present and voting, the Senator from Missouri (Mr. Eagleton), would vote "nay."

Mr. GRIFFIN. I announce that the Senator from Colorado (Mr. Allott), the Senator from Kansas (Mr. Dole), the Senator from Arizona (Mr. Goldwater), the Senator from Vermont (Mr. Prouty), the Senator from Pennsylvania Mr. Schweiker), the Senator from Illinois (Mr. Smith), and the Senator from Texas (Mr. Tower) are necessarily absent.

The Senator from Maryland (Mr. Mathias), the Senator from Oregon (Mr. Packwood) and the Senator from Ohio (Mr. Saxbe) are absent on official business.

The Senator from South Dakota (Mr. Mundt) is absent because of illness.

If present and voting, the Senator from Colorado (Mr. Allott), the Senator from Kansas (Mr. Dole), the Senator from South Dakota (Mr. Mundt), the Senator from Illinois (Mr. Smith), and the Senator from Texas (Mr. Tower) would each vote "nay."

The pair of the Senator from Arizona (Mr. Goldwater) has been formerly announced.

The result was announced—yeas 16, nays 61, as follows:

[No. 25 Leg.]

YEAS—16

Aiken	Hart	Moss
Brooke	Javits	Muskie
Burdick	Kennedy	Pell
Case	McGovern	Percy
Cook	McIntyre	
Goodell	Mondale	

NAYS—61

Allen	Bible	Cranston
Anderson	Boggs	Curtis
Baker	Cannon	Dominick
Bayh	Church	Eastland
Bellmon	Cooper	Ellender
Bennett	Cotton	Ervin
Fannin	Jordan, N.C.	Scott
Fong	Jordan, Idaho	Smith, Maine
Gore	Long	Sparkman
Griffin	Magnuson	Spong
Gurney	Mansfield	Stennis
Hansen	McClellan	Stevens
Harris	Miller	Symington
Hartke	Montoya	Talmadge
Hatfield	Murphy	Thurmond
Holland	Nelson	Williams, N.J.
Hollings	Pastore	Williams, Del.
Hruska	Pearson	Young, N. Dak.
Hughes	Proxmire	Young, Ohio
Inouye	Randolph	
Jackson	Russell	

ANSWERED "PRESENT"—1

Byrd of Virginia

PRESENT AND GIVING LIVE PAIRS, AS PREVIOUSLY RECORDED—2

Byrd of West Virginia, for.
Fulbright, for.

NOT VOTING—20

Allott	McCarthy	Saxbe
Dodd	McGee	Schweiker
Dole	Metcalf	Smith, Ill.
Eagleton	Mundt	Tower
Goldwater	Packwood	Tydings
Gravel	Prouty	Yarborough
Mathias	Ribicoff	

So Mr. Hart's amendment (No. 466) was rejected.

Mr. HRUSKA. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. INOUYE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BENNETT. Mr. President, as we finish our work on this bill, since I am not a member of the Committee on the Judiciary, which considered it and worked so long on it, I want to claim the personal privilege of expressing my sincere thanks to Senator Inouye, Senator Hruska, and Senator Fong, who have taken the leadership in steering this bill through the committee and here on the floor.

In addition, I would like to express my appreciation to Senator Hart, who, even though he was on the other side in this debate, was very thoughtful and considerate of me and of the witnesses who came from Salt Lake to appear in support of the bill before his committee. He has been so gracious and so helpful from that point of view that I would be ungrateful if I did not acknowledge it.

I would also like to thank the chief counsel for the minority on the subcommittee, Mr. Peter Chumbris, who provided excellent service and assistance, as the bill made its way through the legislative mill, to those of us on the outside of the committee as well as to those of us on the committee who have been so interested in the passage of this bill.

Mr. HRUSKA. Mr. President, it is well that there be retained in this bill the language contained in sections 4 (a), (b), and (c).

This language is designed to offer a means of protection to the small suburban and weekly newspapers, and to newspaper employees and their unions, while preserving the separate editorial voices now flourishing in the 22 cities with joint operating arrangements. It offers a compromise solution which should meet the immediate needs of all involved: those papers now in joint operating arrangements; newspapers which may some day have to turn to joint operations as their only chance for survival; suburban newspapers which compete with the metropolitan papers for advertising revenue; workers who are employed by newspapers; and, most significantly, the public interest.

The language in (a) provides for a grandfather clause of sorts. But it is not a complete "grandfathering" of all joint operating arrangements now in existence without regard to the circumstances and situations which led them to enter into these arrangements. The existing joint operating arrangements would be subject to a testing by the courts under the definitions provided in this bill. If a court were to determine that one or more papers did not, at the time of entering a joint operating arrangement, meet the test, then such papers would be subject to existing antitrust law.

It should be noted that there have been joint operating arrangements since 1933. The Department of Justice has known right along of their existence, but, prior to the Tucson case, took no steps to break up such arrangements. In point of fact, the Department has been advised in advance of the formation of such arrangements, and has even issued release letters concerning them. Such joint operating arrangements were not unknown to the Congress, but were discussed in the debates of the Celler-Kefauver Act, and also came up in hearings before the House Antitrust Subcommittee a few years ago.

It was, therefore, generally assumed that joint newspaper operating arrangements were not in violation of the antitrust laws. Then came the Tucson case, and the courts made clear that under existing law, such arrangements do violate the antitrust laws. But, to now test the joint operating arrangements pursuant to a test devised over 30 years later is both unrealistic and unjust.

The test to be used for such existing joint operating arrangements is a reasonable one. In fact, it was approved during the 90th Congress by the Antitrust and Monopoly Subcommittee. This test recognizes the public benefits provided by having two editorial voices in a city where commercial competition between two newspapers would be impossible. And, the test properly recognizes the injustice which would be done to the newspapers, the public, in belatedly attacking arrangements which had been entered into in good faith and with the knowledge of the authorities. Thus, a separate test has been devised for the 22 joint operating arrangements now in existence.

There has been some concern expressed regarding the possibility of new joint operating arrangements being established under the terms of S. 1520, as introduced. There are still some 36 or 37 cities where two or more papers are competing commercially as well as editorially. And, there has been a genuine fear expressed by suburban papers, newspaper unions, and some segments of the public, as to the dangers inherent if some of these other papers were to improperly enter into joint operating arrangements—resulting in what might be a stronger competitive force, the loss of jobs, and maybe, eventually, a loss of independent viewpoints.

This is what I had in mind in favoring

section 4(b). Before any new joint operating arrangements could come into being, the papers involved would be required to come before the Attorney General for his approval. This is not really an unusual situation, since the Department of Justice now receives prior notice of many impending mergers by the parties, who themselves are seeking "release" letters. I envision the procedures under section 4(b) to be akin to the "release" letter technique now employed by the Department. Before authorizing such arrangements in the future, the Department could hear from other interested parties—competing papers, unions, and so forth—as well as make its own investigation, in order to be certain that the new arrangement is essential and is justified.

Further, section 4(b) will act as a brake upon other newspapers which might otherwise prematurely turn to joint operating arrangements, without testing other means of maintaining full commercial and editorial competition.

The proviso at the end of section 4(b) is just to make sure that we have not inadvertently made illegal, in fact or by implication, arrangements which are now lawful. For example, if two commercially competing newspapers in one metropolitan area make joint use of some mechanical facilities, or both employ a single distribution service, this bill is not intended to affect such arrangements.

Finally, the language of section 4(b) of the bill, as introduced, is retained intact, but now as section 4(c). This is the section which guards against predatory practices.

The bill, S. 1520, with my proposed amendments, would provide only a limited exemption to the antitrust laws. This exemption would cure an anomaly in the existing law, and would be in the public interest.

Mr. President, it is also well that section 3(5) of the bill was retained intact as reported by the Judiciary Committee.

It had been the subject of an amendment which would strike from the definition of a "failing newspaper," in section 3(5), the following language: "regardless of its ownership or affiliations," and also "or (ii) appears unlikely to remain or become a financially sound publication."

The purpose of including this language is to insure the judicial interpretation that each newspaper which claims to be, or has been, a "failing newspaper" is a separate entity. The question of whether a paper is failing should be based upon the financial operations of that paper, and not upon the presence or absence of financial support from other newspaper business activities in other cities or from other financial activities of the owners of the failing newspaper.

If we were to eliminate the language suggested, then a reviewing court could find that so long as the owners of a paper had other resources, they would have to continue to invest all other funds in the failing paper until there was nothing left to invest. Thus, the test would not be whether the newspaper was failing, but whether the owners of the newspaper were themselves failing.

Such a test would pervert the purpose of the bill. The intent is to maintain and continue separate news and editorial voices. If, however, the owners of a failing newspaper had to make a choice as to whether they should continue to waste all of their assets in a losing paper, or simply sell out to a competitor—or close down the paper itself—then there would be a loss of editorial voices—see quotes from printed hearings below. The owners would be most unlikely to "send good money after bad," as this would be a rather irresponsible business practice. In other words, deleting the language here proposed would destroy, to considerable extent, the intent and purposes of the bill.

Further this deletion would produce inequitable results for a number of the existing joint operating newspapers, which are a part of newspaper groups, or are owned by corporations which have today other successful enterprises. Many of these newspapers have been in joint operating arrangements for over 20, and as high as 36 years. Some have received release letters from the Department of Justice.

Quotes from the printed hearings on S. 1312, the predecessor bill in the 90th Congress, substantiate the need for the language in Sec. 3(5) to be retained, if the purposes of this legislation are to be achieved. At page 267, Mr. Jack R. Howard, President and General Editorial Manager of Scripps-Howard Newspapers, testified as follows:

Scripps-Howard is aware, painfully aware, of what happens to a newspaper caught in the squeeze between rising costs and declining revenues. During the past three years (July 1967) we have reluctantly suspended three newspapers: The Houston Press, the Indianapolis Times, and the New York World Telegram and Sun.

In Houston, Texas, the Houston Press lost substantial and increasing amounts of money from 1958 through 1963. . . . We made efforts over a period of time to work out some sort of joint arrangement with each of the other papers but were unable to do so. The alternatives that remained were either to suspend publication or to sell the newspaper. We sold to the Houston Chronicle in 1964.

In Indianapolis, Indiana, the Indianapolis Times, an evening and Sunday paper, lost money for more than a decade. Discussion which might have led to a joint arrangement came to naught. The same result attended our efforts to sell the newspaper, and finally the paper was suspended in the fall of 1965.

In New York City, Scripps-Howard's New York World Telegram and Sun had experienced heavy losses for a number of years.

A consolidation was effected with the New York Journal-American and the Herald Tribune.

From the above quotes, one can readily see that even a multi-millionaire corporation, whether a chain or an individual, cannot constantly pour money into a failing newspaper in a given city, and if Senator HART's amendment were to pass, it may prejudice the joint operating arrangements that Scripps-Howard now has in Albuquerque, N. Mex.; El Paso, Tex.; Evansville, Ind.; Birmingham, Ala.; Knoxville, Tenn.; Columbus, Ohio; and Pittsburgh, Pa.

Mr. G. O. Markuson, executive vice president of the Hearst Corp., at page 592, volume 2 of said hearings, stated as follows:

The recent demise of the New York World Journal Tribune (the consolidation of three newspapers) confirms that would-be entrants are not attracted to a losing newspaper market. To the best of my knowledge, no financially able person was interested in acquiring that newspaper property. In view of the tremendous cost of initiating a newspaper operation in New York City and the local labor situation which contributed to the death of five major newspapers in New York City since 1963, no entrant appeared and no one as yet has entered the New York City afternoon field. . . .

The Hearst Newspapers have been, and presently are, located in metropolitan centers. They have, therefore, been subjected to the same economic pressures which generally have plagued other urban newspapers. These extreme economic factors initially transformed certain of the Hearst Newspapers into unprofitable ventures and, ultimately, into failing newspapers. It was only after every reasonable alternative was explored and exhausted that business necessity and prudence caused the Hearst organization: to sell the Chicago American in 1956; to sell the Pittsburg Sun Telegram in 1960; to sell the Detroit Times in 1960; to suspend publication of the Morning Los Angeles Examiner in 1962; to sell the Milwaukee Sentinel in 1962; to suspend publication of the New York Mirror and to sell certain of its assets in 1963; *to enter into a joint newspaper operating arrangement* in San Francisco in 1965; and to *consolidate* the New York Journal-American with the New York World Telegram and Sun and the New York Herald Tribune, forming the New York World Journal Tribune in 1966, which thereafter was forced to suspend publication in 1967.

Again in reading the above quotes, it is evident that, if the Hart amendment were to pass, the Hearst organization would be in jeopardy as to their joint operating arrangements in existence or as to any prospective ones in the future.

We do not have the testimony of other chain newspapers too numerous to detail at this point, but it is crystal clear that, as some of the members of the subcommittee stated during the debate on the Hart amendment in the subcommittee's executive session, what should be controlling is whether the newspaper in a particular given city is failing or not, and, if it is failing, then it should have the opportunity of saving itself through a joint arrangement irrespective and regardless of its ownership and affiliations.

The PRESIDING OFFICER (Mr. COOK in the chair). The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

NEW DEFENSE SPENDING

Mr. SCOTT. Mr. President, earlier today the distinguished majority leader called attention to the story on defense spending for fiscal 1971 that appeared in today's Washington Post.

The distinguished majority leader has been apprised of this statement of mine. He had some serious reservations regarding the figures used in that story. He also indicated that he believed that if the figures contained in the story were accurate, then, based on the figures on appropriations which he had, the reported Nixon budget on defense spending would be an increase over fiscal 1970 rather than a decrease.

I am now able to say to my good friend the majority leader that I think he will find that when the budget message is delivered on Monday, and he has a chance to look it over, he will find that the President has, in fact, recommended substantial decreases in national defense functions.

Mr. MANSFIELD. Mr. President, will the Senator yield?

Mr. SCOTT. I yield.

Mr. MANSFIELD. May I say that this is good news, indeed.

I was disturbed, as I think the whole Senate was disturbed, by the apparent contradiction in figures based on the article published in the Washington Post.

Thus, I am assuming, on the basis of the statement just made by the distinguished minority leader, that there will be a $4 billion, $5 billion, or $6 billion reduction in defense requests for this fiscal year.

That is good news for all of us, but most important for the people of the country.

Mr. SCOTT. I can only say that the budget and the economic message are privileged. I have not seen it and I therefore cannot make any statement as to its figures; but, I am authorized to make the statement I have just made.

Mr. MANSFIELD subsequently said: Mr. President, first I would like to make some additional comments in relation to what the distinguished minority leader said earlier today about the budget to be presented on Monday by the President of the United States. He indicated then that when the budget message is delivered and after we have a chance to look it over, we will find the President has, in fact, recommended substantial decreases for the functions of national defense.

It is hoped that the budget requests of President Nixon for Defense for the coming fiscal year will reflect requests for appropriations well below that amount appropriated this year by the Congress. The appropriated funds for this year were $5.6 billion less than what the President requested. I hope that President Nixon, for the coming year, will even outdo the Congress of last year by requesting less than we gave in fiscal 1970, and that the Congress in turn will, in the coming year, further reduce those requests.

There has been talk in the past, with relation to defense spending, of a mad momentum inherent in each new weapon system.

I hope that the Congress and the President have reversed the inertia of the past and the new momentum will inure to the benefit of the Nation and all mankind.

I want to say that we will do our best to help the President reduce Government spending, and we think that, working together, we will be able to bring that about.

Mr. SCOTT. I thank the distinguished majority leader.

THE USE OF WIRETAPPING BY THE DEPARTMENT OF JUSTICE

Mr. McCLELLAN. Mr. President, approximately a year and a half has passed since the enactment of title III of the Omnibus Crime Control and Safe Streets Act of 1968, which gave the Federal and State Governments authority to conduct organized crime electronic surveillance under a careful warrant procedure.

Now, data gradually are becoming available on the experience of prosecutors and courts with the use of that law. We in the Congress have a duty continually to study and evaluate that experience, in order to determine whether the provisions of title III are used effectively but without undue invasion of individual privacy and to search for areas in which those provisions might require refinement.

It was in this connection, therefore, when the first reports on the use of title III, required by the act to be filed annually by Federal and State authorities with the administrator of the U.S. Courts, became available last year, that I placed copies of them in the CONGRESSIONAL RECORD and discussed their implications at some length. (CONGRESSIONAL RECORD, volume 115, part 17, pages 23238–23251.) Those first reports, however, reflected only State experience, since during 1968 the administration under the then Attorney General had refused to make use of its powers under title III. In 1969, of course, the new administration reversed that policy and promised to employ title III in investigating organized crime cases. For that reason, those who feel special concern for law enforcement, and particularly for the Federal response to the threat of organized crime, have eagerly awaited the filing of the title III reports for 1969.

The first Federal report under title III has now been filed by the Attorney General. When all the 1969 State reports have been filed as well and made public, I intend to study them and make a full report to the Senate on their significance and implications. Today, however, I wish to bring to the attention of the Senate a preliminary analysis in today's New York Times of the Federal report, since it offers tentative confirmation of the predictions made by those of us who supported title III when Congress was considering its enactment.

First, the report indicates strongly that the former Attorney General and others who claimed that electronic surveillance under court order would not be effective against organized crime were completely wrong. In the first year of the Federal Government's use of title III, six electronic surveillances of a gambling conspiracy centered in Newark led to arrests of 55 persons, including several leaders of La Cosa Nostra, and one wiretap on a Washington, D.C., heroin wholesaler led to arrests of 57 defendants, including two Mafia leaders and a police officer.

Second, the report provides powerful evidence that opponents of title III who spread fear that it would lead to massive and indiscriminate overhearing of innocent conversations were incorrect. In 1969, the Federal Government conducted only 31 organized crime electronic surveillances, all of which the Attorney General stated were "personally approved" by him as well as by the Federal courts. In selecting and conducting those surveillances, the Justice Department and the judges appear to have been most discriminating in their use of title III's authority, under which eavesdropping may be conducted for up to 30 days and, where an extension is justified, for an additional 30-day period. According to the Times article, "often the Government asked for 15 days or less, and frequently its agents said they removed the devices early," even before the periods specified by the courts had expired. The result of this discriminating application of title III appears to have been the interception of relatively few innocent conversations. For example, the Washington narcotics wiretap, according to the New York Times, "picked up 5,889 calls over 39 days. Of these, 5,594 were said to be incriminating."

The data in the report suggest one factor limiting the use of title III which had been overlooked by opponents of the measure: The maintenance of a wiretap or device, and the recording and analysis of conversations overheard on it, are extremely expensive. Using the Washington wiretap again as an example, that surveillance cost the Federal Government $45,554. In that case the expenditure, of course, was fully justified by the excellent results of the wiretap. However, the likelihood that such a large sum would be wasted, if a surveillance were conducted for inadequate reasons and therefore led to no evidence or to evidence which was inadmissible because improperly obtained, apparently is a major deterrent to abuse of title III. In addition, the selective and limited Federal use of title III's authority suggests that not only the cost factor but also the elaborate safeguards of individual privacy written into title III are functionng effectively to protect citizens from excessive Government intrusion upon their private lives. I have not heard any complaints these days about private investigators using wiretapping to invade the privacy of citizens.

Of course, Mr. President, we must remain vigilant to insure that Government use of electronic surveillance remains a servant of the public and not a threat to it, so I look forward to examining the full reports for 1969 and for later years as they become available. Nevertheless, I am most gratified that the first returns appear so very favorable both for civil liberties and privacy and for the cause of effective law enforcement.

Mr. President, I ask unanimous consent to have printed in the RECORD todays' New York Times' article on this subject.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the New York Times, Jan. 30, 1970]

U.S. WIRETAPPING RESTRAINED IN 1969—MITCHELL SAYS IT WAS USED 31 TIMES IN 15 CITIES

(By Fred P. Graham)

WASHINGTON, January 29.—The first public accounting of the Justice Department's wiretap activities against organized crime, made public today, shows that electronic eavesdropping under the Nixon Administration's law-and-order regime has been limited and restrained.

In his report on the Federal Government's use of eavesdropping in anti racketeering investigations in 1969, Attorney General John N. Mitchell disclosed that only 31 electronic surveillances were used last year, in 15 cities.

Most of them were in investigation of illegal gambling. Six were installed in Newark,

where they were instrumental in the arrests of 55 persons on Dec. 18 on gambling conspiracy charges.

The report contained several indications that Mr. Mitchell, despite his frequent public statements about the benefits of electric surveillance, has been using it sparingly and with care. He stated that he "personally approved each of the reported applications" to judges for authority to use listening devices.

Under the Omnibus Crime Control Act of 1968 the Federal Government was given the authority for the first time to use electronic eavesdropping in criminal investigations. The law requires an annual report of all eavesdropping, which Mr. Mitchell filed yesterday with the administrator of the United States courts.

Copies were sent to legislative leaders on Capitol Hill and were made available there.

One indication of efforts to avoid invasion of privacy was the high number of wiretaps and the relativly few "bugs"—hidden microphones that usually prove more violative of privacy because they can be planted in unexpected places and overhear all that goes on.

Of the 31 surveillances, 30 involved wiretaps. In two of these, "bugs" were also planted. Only once was a "bug" used without a wiretap.

According to the records most of the wires tapped were in homes or apartments, where they were being used for bookmaking. The report shows a high percentage of incriminating interceptions, compared to innocent calls.

ONE TAP, 57 ARRESTS

One wiretap on a narcotics wholesaler in Washington, D.C., picked up 5,889 calls over 39 days. Of these, 5,594 were said to be incriminating. The device resulted in the arrest of 57 people, one of the most massive roundups of narcotics violators on record.

That wiretap also indicated one reason why wiretapping is used more sparingly than many people have assumed. The cost of manning the listening posts around the clock and transcribing the conversations can be high. The Washington wiretap cost the Government $45,554, indicating that the Government is probably precluded by finances from attempting pervasive electronic surveillance.

The report shows that wiretapping by the Federal Government was concentrated in the major cities, mostly in the North and East. Aside from the Newark taps, the number of listening devices used was: New York, Cleveland, Philadelphia and District of Columbia, three each; Buffalo, Miami and Chicago, two each; and Detroit, Pittsburgh, Albany, New Haven, Kansas City, Camden, N.J., and Muskogee, Okla., one each.

So far, these surveillance have resulted in 137 arrests, but the report says that more are expected. Under the law, judges may authorize eavesdropping for up to 30 days. Often the Government asked for 15 days or less, and frequently its agents said they removed the devices early.

The law went into effect in June, 1968, but the Federal Government reported no wiretapping for 1968. The Johnson Administration refused to use the new law on the ground that it could lead to a widespread fear of government snooping.

However, the state that use court-approved wiretapping filed reports for their activities in the last six months of 1968. In New York alone, state prosecutors obtained 167 court orders to permit electronic surveillance.

Mr. Mitchell's report shows that the Federal Government's wiretapping in criminal cases was much more restrained. However, the report does not include wiretapping in national security investigations, which can be done under the statute without court approval and without subsequent reporting.

Mr. Mitchell has asserted that this "national security" authority includes the authority to eavesdrop at his own discretion on domestic groups that he considers dangerous. The Government is believed to be eavesdropping on black militant groups, extreme right-wing organizations and far left groups, but no one has been able to say how widespread this eavesdropping might be.

NEWSPAPER PRESERVATION ACT

The Senate resumed the consideration of the bill (S. 1520) to exempt from the antitrust laws certain combinations and arrangements necessary for the survival of failing newspapers.

Mr. PERCY. Mr. President, I want to see a dynamic and growing newspaper industry, as I am sure we all do. We know that there are certain weaknesses in the industry now but for the most part it is strong and healthy, financially and editorially. The American press is the freest press in the world; it has withstood the onslaughts of vigorous competition and Government quite well.

I have seen through the years special pleas made by many industries to the effect that "our case is different." Always this "difference" warranted some special treatment. In one case it might be a tariff, another an absolute import quota, in another a Government subsidy or an exemption from some Government law. Once the flood gates of special treatment and privilege are opened the avalanche of special exemptions from proven economic principles and laws is endless.

Too often the reasons given for failure or lack of growth are never even close to the real reasons. Rarely does management admit to poor management decisions or practices, overcrowded markets, poor customer appeal. Seldom does labor admit to monopolistic practices, wage increases that far exceed increases in productivity, or slow-down practices that wreck an otherwise healthy enterprise. And so cures are improvised but the real ailment is never actually treated.

I would not want to see the legal stamp of approval of the Congress of the United States put on such abhorent business practices as price fixing, pooling of profits, and market allocation by competitors in a free economy in an unregulated industry. There is no telling where this might lead. We might well be opening a pandora's box.

I am not sure that the legislation before us actually will save any newspaper or strengthen an independent editorial voice that would otherwise be stilled.

I am not convinced that the advantages granted under this legislation will not be abused so that already prosperous newspapers could not simply use its special exemption from antitrust legislation to add further to their already existing prosperity. I am not sure that practices already permitted to the newspaper industry such as joint printing, joint circulation facilities, joint Sunday edition, cost justified combination advertising rates, and partial joint accounting and billing and certain merger rulings already agreed to in failing situations are not as far as we should go in permissiveness between competitors.

As I understand it, these practices I have mentioned are not changed by this legislation.

I am aware that, because of the overwhelming support I see for this bill on the floor of the Senate, it will probably pass. But in good conscience, for the aforementioned reasons, I cannot support it.

Mr. MOSS. Mr. President, newspapers are businesses which are and should be subject to the antitrust laws. But in our democratic society they are much more than economic units. In disseminating news and editorial opinion they serve a function that is indispensable in a free society. To preserve competing editorial voices, the cloud of illegality must be removed from joint newspaper operating arrangements.

I am familiar with one such joint operating arrangement which has been very beneficial to the citizens of my State. In Salt Lake City—a city of only moderate size—we are fortunate to have two separately owned daily newspapers. The Salt Lake Tribune and the Deseret News are in strong competition with each other and have often taken diametrically opposed positions on public issues. To this I can personally testify since my own legislative proposals have on more than one occasion received mixed reviews.

But this is as it should be. The Salt Lake press corps is not one of Mr. AGNEW's elites who talk only to each other and speak with only one voice. During the 1968 political campaign, the opposing positions by Salt Lake City's two newspapers was in large part responsible for making liquor by the drink a major issue.

In fact, if any criticism is to be leveled at Salt Lake City's newspapers it is that they may have lost their news objectivity in trying to outdo the other from opposite sides of the liquor-by-the-drink issue.

These possible excesses are, of course, rare and, in any event, such problems of divergent editorial newspoints are far preferable to a single monotonous voice.

But Salt Lake City could be faced with a monotonous voice if our two newspapers are not allowed to continue to operate joint production facilities. If they cannot continue their cost-saving procedures, Salt Lake City could lose one of its major newspapers. That is why I support the Newspaper Preservation Act.

Basically, the Newspaper Preservation Act provides an antitrust exemption which is designed to permit a "failing newspaper" within the meaning of the act, to take steps short of an outright merger or consolidation so that it may continue as an independent source of news and editorial opinion. To accomplish this result and cut its cost of operation, a "failing newspaper" may combine some or all of its business functions with another newspaper. Joint operations may include the things commonly existing when there has been a merger, including unified business operations, joint or common establishment of rates and division of revenue.

The conduct which is allowed by the term "joint newspaper operating arrangement" found in section 3(2) of the act is only that which is appropriate for the successful operation of a joint arrangement. The joint activities mentioned in section 3(2) are incidents of viable and effective operation and do not

encompass predatory conduct. For example, the authority for two newspapers to agree as to the "time, method and field of publication" includes such things as the ratio of news and editorial opinion to advertising and whether and when any newspaper publication or an issue thereof should be published.

As stated in the report of the Committee on the Judiciary, the purpose of the act is to preserve editorial voices under separate control. For example, prior to the operation of a qualified joint newspaper operating arrangement, one publisher may have published an evening daily and Sunday morning newspaper and the other publisher may have published a morning daily and Sunday morning newspaper and an evening daily newspaper. The joint newspaper operating arrangement may result in one daily morning newspaper, one daily evening newspaper and one Sunday newspaper. This recogizes and implements the basic principle that the exemption is permissible because survival of the failing newspaper can be facilitated by the cost savings that would result from unified business but at the same time separate editorial voices are retained. There could not be a complete elimination of both evening daily newspapers, or both Sunday morning newspapers, or the morning daily newspaper, and still satisfy the policy of the law that separate editorial voices be preserved.

Subsection 4(b) of the bill delineates the boundaries of the exemption. The basic principle is that a joint operating arrangement constitutes a partial merger and is to be treated as a single entity is treated under the antitrust laws. This limited exemption clearly maintains prohibitions against any predatory pricing or predatory practice. In other words, though the partial merger would be lawful, the operating arrangements would not then be in any superior antitrust position to newspapers under single ownership. A lawful newspaper operating arrangement would still clearly be subject to the single entity "attempt to monopolize and monopolize" prohibitions of section 2 of the Sherman Act, just as single ownership situations are now subject to these prohibitions.

By recognizing an economic fact of life the legislation truly helps to preserve newspapers. Without this legislation we will have less, not more, competition and the public will suffer for it.

Therefore, I urge the Senate to pass S. 1520, the Newspaper Preservation Act.

Mr. BYRD of Virginia. Mr. President, I feel that I should make a statement before the roll is called on the failing newspaper bill.

During most of my adult life, I have been a newspaper editor and a newspaper publisher. And in recent years I have had—and do have now—a substantial ownership in two daily newspapers in Virginia. One of these newspapers owns a third newspaper. I think the record should show these facts.

I do not see any way in which the pending legislation could benefit any of these newspapers. Although there is no conflict of interest, insofar as I can determine, being a newspaper owner, I have concluded to withhold my vote, and when my name is called, I shall answer "present."

Mr. INOUYE. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. NELSON. Mr. President, I am reluctant to vote against the pending bill because there are some joint operating agreements which are, in my judgment, beneficial to the public. One of these beneficial joint operating agreements includes the Capital Times and the Madison State Journal in Madison, Wis.

These two papers have maintained an honest, vigorous, and healthy editorial policy for a half century, both before and since the joint operating agreement was made some 20 years ago.

Madison is a two-newspaper town in the best sense of the word. These two papers have made an invaluable contribution to the quality of government in the capital city of our State.

If it were ever to become a one-newspaper town, that exceptional spirit of ferment, debate, and political creativity that has distinguished our capital city across this Nation would be gravely in danger.

I might add parenthetically that the publisher of the Capital Times, William T. Evjue, has a national reputation as one of the great liberal editorial voices in this country.

Heaven knows, we need more independent papers, more editorial voices like that of Bill Evjue, and more two-newspaper cities like Madison, Wis. Nevertheless, I cannot vote for the pending bill.

It seems clear to me that the evils of this wholesale exemption from the old antimonopoly principles outweighs its benefits. In the long haul, this measure will simply continue to concentrate more power in the rich newspaper chains at a time in history when we should be pursuing a vigorous course that will multiply the number of editorial voices in all media, radio, television, and the press, rather than a course that will concentrate more power in fewer hands .

As a purely personal matter, I am further reluctant to vote against the pending bill because in my 20 years in public office, both of these papers have treated me with eminent fairness. One of these papers has been my most vigorous supporter throughout the whole of my public career.

If the only issue were as to whether the bill should apply to these two papers in Madison, Wis., I would support it. However, it involves a much broader issue, and I cannot support it.

Mr. HART. Mr. President, this is a rollcall vote to which no attention attaches as to the outcome.

I want very briefly to salute my friend, the Senator from Wisconsin. It is not an easy vote when joint agreements exist in one's own State.

I believe that the wise course for those of us who do believe that there is some form of joint agreement which will permit the survival of two newspapers, such as in Madison, Wis., is not to vote for the bill and, as the Senator from Wisconsin says, give carte blanche to the richest and the strongest as well as to the less secure, but rather to realize what the order in the Arizona case has permitted—making available to those few joint agreements some security in terms of survival, and affording the opportunity of having a court selectively determine the reach and the extent to which anticompetitive practices may be permitted.

Any court, I believe, has the competence to sense and understand the distinction between a Newhouse, a Scripps-Howard, a Hearst, and that other litany of giants, and the other few, one of whom the Senator from Wisconsin, commented on.

We are in a great debate over priorities. We have to reorder our priorities. We are spending our time now focusing on how we can continue the economic health of the great publishers, who rank among the richest and certainly the most powerful men in America, a group that on the basis of figures that are available—although not for publication in the RECORD—show them to own perhaps the most profitable class of business in the Nation, better even than the pharmaceutical concerns about which the Senator from Wisconsin has told us so much.

There is a hard-hitting weekly newspaper publisher in Denver, Gene Cervi. When he testified he labeled this bill a millionaire-crybabies-publishers' bill. And in large measure it is not an inappropriate label.

It is a poverty program for some of the richest in the country, to be financed not by the general revenue of the Treasury, but by those who advertise in newspapers and those of us who want to buy a paper.

In my book, poverty programs should be reserved for the deserving poor. If we are going to have a poverty program, let us at least attach a provision to it that the beneficiaries should prove they are entitled to assistance.

The pending bill does not even provide for ending the exemption once health has been restored, if we can find such a situation.

Mr. President, all the Newspaper Preservation Act will preserve are the monopoly profits of a small group of publishers who have achieved those profits by price fixing, profit pooling, and market division. If the objective of the Congress is to preserve newspaper competition and encourage a multiplicity of editorial voices it should insist on strict enforcement of the antitrust laws and should not permit them to be weakened.

This bill was precipitated by the Government suit against the newspapers in Tucson, Ariz. A brief examination of the history of the agreement in Tucson will be helpful in demonstrating why this bill should not pass.

In 1936 William Small, then a resident of Chicago, purchased the Tucson Daily Citizen from its previous owner. The paper lost money when he purchased it, but then so did many businesses in those depression years. In each succeeding year the losses of the Tucson Citizen diminished and in 1940, the year the competition-ending agreement was made, the paper was about to show a profit.

Was the Tucson Citizen a "failing newspaper?" The district court judge found:

At the time Star Publishing and Citizen Publishing entered into the operating agree-

ment and at the time the agreement became effective, Citizen Publishing was not then on the verge of going out of business, nor was there a serious probability at that time that Citizen Publishing would terminate its business and liquidate its assets unless Star Publishing and Citizen Publishing entered into the operating agreement.

The Supreme Court said:

The evidence sustains the finding. There is no evidence that the owners of Citizen were contemplating a liquidation. They never sought to sell Citizen and there is no evidence that the joint operating agreement was the last straw at which Citizens grasped. Indeed, the Citizen continued to be a significant threat to the Star. How otherwise is one to explain the Star's willingness to enter into an agreement to share its profits with Citizen? Would that be true if as now claimed the Citizen was on the brink of collapse?

Mr. President, if your competitor is going broke would you not be a fool to respond to his dilemma by offering him one-half of your own profits in perpetuity?

The Tucson of 1969 is a far cry from the Tucson of 1940. Population has grown tenfold. The circulation of the newspapers has risen from 8,000 each in 1940 to 40,000 each in 1968. Yet, this bill does nothing to take the changed conditions into account. The 1940 situation provides exemption in perpetuity.

Two other specific items suggest that what we are asked to preserve is not, "an independent editorial voice," but rather the monopoly profits of a few privileged publishers. The first is a prospectus dated March 19, 1969, filed with the Securities and Exchange Commission by Lee Enterprises, half owner of joint agreements in Lincoln, Nebr., and Madison, Wis. The prospectus notes the Supreme Court's decision in the Tucson case and says that to the extent a modification of the two joint agreements may mean an increase in costs "profits may be decreased." There is no suggestion made that a modification of the agreement would lead to the certain death of one newspaper.

Finally, page 223 of the committee hearings is a reprint of a document prepared by the newspapers now asking Congress for an antitrust exemption. It was an exhibit in the antitrust trial and was referred to in hearings. The profits of the Tucson papers are shown as a pile of money. The pile is divided into three parts labeled, Normal Profits, True Excess Profit, and Profit Gained by the Elimination of Competition. Mr. President, we are asked to preserve the profit gained by the elimination of competition; we should say no.

Ben Bagdikian, now the national news editor of the Washington Post, then speaking as a newspaper consultant, told the Subcommittee on Antitrust and Monopoly that when newspapers have died, the most usual cause of death was the failure of the paper to relate to the needs and wants of the community, a community that has in many cases changed since the foundation of that paper. But in many cases, the paper failed to change with the community.

The Constitution gives publishers an unlimited right—and I defend it—to be as narrowminded, opinionated, and bigoted as they wish.

The Constitution does not give them the right to be as narrowminded, opinionated, and bigoted as they wish and make money at it. And we should not attempt to broaden that constitutional grant.

In my book, there is a grave danger that that is precisely what the adoption of the pending bill would do.

I hope we reject it.

Mr. President, I wish to thank the able Senator from New Hampshire (Mr. McINTYRE) for his assistance on this bill. His diligent work added unmeasurably to the debate.

Mr. President, I ask unanimous consent to have printed in the RECORD an article entitled "Pi in the Sky" published in Barron's on November 17, 1969; an article entitled "The Press Dummies Up" published in the Nation on June 3, 1969; an article entitled "SPIRO AGNEW's Candle's," published in the New Republic on January 17, 1970; and excerpts from an article entitled "The Newspaper Industry," published in Forbes in October 1969.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

PI IN THE SKY: NEWSPAPERS SELL AT RECORD HIGHS ON MAIN STREET AND WALL STREET

(By Dana L. Thomas)

What's the Times Herald Printing Co. of Dallas worth? To the acquisitive publisher of the Los Angeles Times, it's worth a cool $91.4 million—an astonishing fact which became known recently when California-based Times-Mirror Corp. announced the negotiated merger terms. Times Herald happens to own not only a daily Sunday newspaper but also a TV and radio station, an offset printing plant and other assorted chunks of downtown Dallas real estate. In exchange for all these assets, Times-Mirror has agreed to issue (pending IRS approval) a new preferred stock, convertible into 1.9 million shares of common. At current market value, that works out to the highest price ever paid for a newspaper company.

It dwarfs even the big deal announced last month by John S. Knight's expanding empire (Detroit Free Press, Miami Herald, Akron Beacon Journal, etc.), which overnight has made Knight Newspapers the nation's third-largest chain in total weekly circulation—behind the Chicago Tribune group and the Newhouse organization. From the new Ambassador to the Court of St. James, Walter H. Annenberg, Knight purchased two of Philadelphia's three papers (the morning Inquirer and afternoon Daily News) for the princely sum (in cash and notes) of $55 million. According to the latest circulation figures, that's something like $77 per reader.

MAN BITES DOG?

The newspaper business, in short, is making "upbeat" financial news these days. Long the subject of doomsday stories—as one industry obituary followed another, and as labor demands and other soaring costs combined with declining markets to threaten the very survival of print media—the trade has come very much to life. Moreover, concentration of the business into ever larger chains (an innovation in journalism limited for decades to the Hearst and Scripps-Howard combines) has put in the hands of multiple-property, usually multiple-market publishers, control of 58% of total U.S. daily circulation and 63% of the Sunday readership.

Accordingly, the chains are bidding high for a diminishing supply of independent, established dailies in both urban and suburban territories; new mastheads, meanwhile, keep cropping up on the newsstands even as some old and cherished names drop out of sight. Most strikingly, all the dither has forced some off-the-record secrets out into the open. The industry, perhaps less communicative than any other about its own financial affairs—mainly because newspapers by tradition have been the private business of family interests—increasingly is becoming public property. Today, no fewer than 15 leading U.S. companies are publicly held (with six on the Big Board), publishing the news for one U.S. reader in every seven and issuing financial reports for the stock market at large. At least three more recently filed initial offerings with the SEC, and the word in the trade is that there's more to come.

Small wonder. Poohbah Marshall ("Medium Is the Message") McLuhan, and others who pooh-pooh the printed word, just haven't checked their data. Since World War II, despite the exploding Age of Electronics in communications, newspapers overall have gone nowhere but up. U.S. circulation has risen from 51 million to 63 million; advertising revenue has soared from less than $2 billion to more than $5 billion; hardly least, employment has shot up at double the pace of manufacturing industries generally.

Along with pi in the sky, to be sure, the Fourth Estate also has had its share of widely publicized woes (Barron's, July 1 and 8, 1968). Payroll and distribution costs continue their equally inexorable rise, while management efforts to modernize inevitably are met by union resistance; here and there (as in New York) interminable strikes have led to permanent job losses, where weak papers ultimately have folded. Meanwhile, America's trek from city to suburb has diluted—or at least shifted—the market in many areas; some publishers adeptly have pursued their readers with expanded operations or acquisitions of outlying papers; others merely have lost ground to the suddenly affluent exurban sheets.

PAPER PROFITS

In big towns and whistle stops alike, however, it's the concentration of profitable U.S. dailies and weeklies in strong hands—fewer but better-capitalized (and frequently "monopoly") publishers—that rates banner headlines today. To show graphically just how prosperous newspapering has become, Editor & Publisher (the trade bible) worked up a composite, medium-sized paper of 53,800 circulation—a "dummy" based on actual industry statistics. Over the past decade, its circulation revenues would have jumped to $1.2 million from $607,000; its ad revenue to a whopping $3.7 million from $1.7 million. Most eye-opening, of course, is that figure hitherto largely off-the-record. Net profit would have more than trebled, to $660,000 from $218,000—proof of a viable "dummy" indeed.

Last year, in real life, 1,753 daily and some 8,000 weekly papers rolled off the nation's presses, sporting black ink aplenty. Their ad billings topped $5 billion for a new record, while total daily circulation (up 1.5%) peaked at 62.5 million. This year, the story thus far has been more of the same. Despite hikes in the price of newsprint, and built-in labor-contract escalations, combined with the impact of tight money which has caused advertising to level off somewhat, profits seem headed for higher ground—owing to offsetting boosts in both newsstand prices (including subscriptions) and advertising rates. Through the first eight months of 1969, indeed, ad revenues alone climbed another 11.7%. True, there are labor problems ahead; in some localities new contracts will have to be negotiated next spring. But the overall trend is "go."

Much of the concentrated publishing power responsible for this surge remains in private hands, of course. Such ink-stained family firms include the industry's Big Two—the Chicago Tribune organization and the Newhouse Papers. Other press lords still privately held, and boasting weekly circulations of a million or more, are Field Enterprises, James M. Cox, Central Newspapers, Robert McLean, the Kansas City Star, Copley Press

and the national best-seller, the New York Daily News.

Public ownership, though, looms increasingly large on the industry masthead. Thus, leading publishers well-read by investors from Main Street to Wall include Los Angeles' Times-Mirror, the New York Times Co., Gannett Co., Media General, Boston Herald-Traveler Corp., Cincinnati Enquirer (part of the Scripps-Howard chain but operated independently), Federated Publications, Post Corp. and Booth Newspapers.

MORE HEADLINERS

Then there are the broadly diversified giants in newspapering: Cowles Communications (whose flagship is Look Magazine); Time Inc. (Time-Life-Fortune, plus some new entries in newsprint); Thomson Newspapers Co. of Canada (traded in Toronto), which owns the U.S. Brush-Moore chain; Capital Cities Broadcasting (a TV-radio network that now embraces the trade papers of Fairchild Publications); and Dow Jones & Co. (which, in addition to its ticker service, and nationally circulated Wall Street Journal and National Observer, publishes a profitable weekly called Barron's).

Joining the publicly held ranks during 1969, moreover, have been some notable new names. Lee Enterprises, with a string of 16 papers stretching from Montana to Missouri, sold 310,000 shares on the market last March. In April, Knight Newspapers went public, with a 950,000-share offering; it listed on the New York Stock Exchange in August. Multimedia, still another chain published (based in the South), filed a public offering earlier this year, then postponed it "pending a strengthening in the market."

Currently in registration with the SEC, finally, are Communications Corp. (Com Corp), and Ridder Publications. The former, with 17 papers in northeastern Ohio, plans to offer 210,00 shares publicly. The latter, jointly underwritten by Goldman, Sachs and Lehman Brothers, will offer around 617,000 shares. Ridder, it should be noted, is no stranger on either Wall Street or Madison Avenue. Besides the New York-based Journal of Commerce, it publishes the only dailies in St. Paul, Minn., and Long Beach, Calif., along with a slew of others; astonishingly, its San Jose (Calif.) Mercury last year was the nation's sixth-largest in morning-paper advertising linage, while its San Jose News stood third among evening papers. All told, Ridder, the industry's most important underwriting since Knight, ranks eighth in the nation in total weekly circulation.

LOOSENING THE GRIP

In this connection, even the publicly held retain strong family ties—if not outright control. Thus, 34.5% of the stock in Gannett belongs to the Frank E. Gannett Newspaper Foundation, Inc. Knight Newspapers still is 51%-owned by the heirs of John Knight. Again, the selling shareholders in Ridder Publications—nine members of the family and a trust—are relinquishing only 10% of the shares slated to be outstanding when the offering is completed.

Some managements, however, are urging dominant owners to loosen the grip a bit further, thereby increasing the floating supply of shares and improving the market for all. Accordingly, new secondary offerings may be expected. Last fall, as an early indicator, the New York Times moved to firm up its thin and volatile Class A common stock. A trust (created under the will of Adolph Ochs) offered 640,000 shares, to improve the liquidity of its assets. (The trust retains 51% of outstanding Class A stock, and 65% of the Class B.) Also, amendments to the company's certificate of incorporation were introduced, providing a 4-for-1 split of both the Class A and B, and granting the Class A shareholders (i.e., the public) the right to vote as a class to elect 30% of the board of directors.

What all the financial fuss is about, then, is a promising outlook for the sturdy survivors in U.S. newspapering. (As it happens, a number of publishers also have a stake in other fields. Multimedia distributes films; it and Knight operate trucking businesses; the New York Times is in microfilming and non-fiction books; Times-Mirror, deriving over half of revenues from non-newspaper ventures, ranges from the educational field to forest products.) Aside from the usual run-of-the-press problems, however, there's one cloud hovering over the distant horizon: cable television, or CATV (Barron's, November 13, 1967).

As of now, the newspaper has little advertising competition from the local airwaves; its forte, after all, is the display ads of neighborhood merchants. Just this month, the FCC finally relented and authorized cable-TV broadcasters (heretofore sponsored only by subscribers) to carry paid advertising. In many local markets, accordingly, the small screen well may loom as a direct rival to the broadsheet for such all-important revenues. Irving Kahn, chairman of Tele-Promp-Ter Corp., hailed this and related FCC rulings as a "step toward establishment of a total broadband communications system, of which cable will be an important part." In today's electronics Newspeak, what he and his industry really could be threatening is the ad-sponsored electronic "newspaper-in-a-box" in every home.

DISTANT THREAT

The threat's a distant one, at worst, but several alert publishers have perked up their ears. (Many already own standard TV-radio operations, of course, but the Justice Department has forced Gannett to sell a station in Rockford, Ill., where it owns the newspapers, and the FCC has refused the Boston Herald-Traveler a renewal of a TV license.) In the case of cable as well as regular TV publishers are carefully selecting their acquisitions to avoid anti-trust action. The Times-Mirror, which, as noted, has obtained a TV outlet in Dallas, through the Times Herald purchase, also has acquired Co-Axial Systems Engineering Co., a CATV operator which serves subscribers in communities south of Los Angeles, as well as a second firm in the Long Beach area. Gannett has a subsidiary called Ontario Cable TV serving channels in Rochester, Syracuse and New York City, while Media General recently tuned in with CATV systems in Virginia and Florida.

If the cable-TV picture bears watching, far more intriguing at the moment is the progress of newspaper publishers in modernizing their basic business. Last year 710 of the nation's top papers, representing 51% of total daily circulation, poured a record $161.2 million into plant modernization and expansion, compared with $143.3 million spent by 715 U.S. dailies in 1967. Currently, 492 daily papers are being printed by offset or are due to change to offset (a system that eliminates the traditional need for molten metal) by the end of this year. Moreover, 357 papers now use computer systems for typesetting.

Publicly owned publishers are quite naturally in the forefront of technical experimentation. The most aggressive innovator in this regard is undoubtedly Dow Jones, which is currently building a printing plant—its ninth for The Wall Street Journal—designed to be the last word in producing a major daily paper using offset printing technology and facsimile transmission. In 1968, the company installed a five-unit Goss press at its Highland, Ill., plant, marking the first time The Wall Street Journal has been printed on a high speed offset press. Moreover, the company has installed twin computers as the basis of a nationwide communications network to transmit news from its bureaus to editing headquarters and from there to tape punching centers and to the printing plants. Moreover, Dow Jones has signed a contract with General Electric to equip the DJ News Service with variable-speed printers to expand coverage for its customers.

One area in which particularly promising steps are being taken is in the development of plastic printing plates to replace the traditional metal ones. W. R. Grace has developed an extremely thin plate that can be made from a photographic image of a newspaper page. A competitive process, turned out by Union Carbide and Sta-Hi Corp, is being tested by the New York Daily News. Whatever version becomes commercially feasible, production men feel that ultimately it will contribute substantially to saving time, manpower and material handling costs.

The front-page story in newspapering today, of course, is financial. Why the rush to go public? There are several reasons. In some cases, the skein of family descendants willing to assume responsibility for newspaper properties, has run out. With latter-day generations growing more numerous, and more diverse in their interests, the scions are anxious to sell out and want a market value placed on their holdings. Then, too, expansion of operations, coupled with the revolution in technology, requires vast sums—and new sources of capital.

Additionally, publishers whose ego demands that the enterprise be perpetuated—even if no heirs exist to carry it on—must be able to sell equity to new management and the latter demand liquidity. Finally, publishers, long suspicious of outsiders, are discovering at last that the open disclosure of highly profitable returns—far from hurting their image—greatly enhances it, as well as the equity behind it.

In any case, seeking public funds is one way to finance an aggressive expansion program. David Gottlieb, executive vice president of Lee Enterprises, explains: "The main reason Lee decided to go public was that people wanted to join us, to bring in their newspapers and be acquired by Lee." Philip Adler, president of the firm, adds: "The problem was how to place a value on our stock in relation to the stock of a paper being absorbed by us. So far, we had taken our earnings and expenses and compared them with the earnings and expenses of papers coming in." This had provided a rule-of-thumb for mergers, but still left open the means for assuring a ready price and market for the stock. Only a public offering could provide this. "We thought about it and talked about it for about three years," says Mr. Adler, "before the board voted to take action."

BEATING THE BUSHES

Currently, publishers literally are beating the bushes, seeking independent owners who may want to sell. Recently, when the Justice Department ordered E. W. Scripps to divest itself of a 60% interest in the Cincinnati Enquirer (because it also owns the Cincinnati Post and Times-Star) more than 30 publishers rushed to bid. (Scripps has until May 1970 to dispose of the paper; it's taking its time sorting out the offers.)

Clearly, then, under today's conditions, purchase prices have swollen to heady proportions. One yardstick employed to estimate the value of a successful daily is about $30 times the daily circulation figure (in a competitive area) or $100 in a "monopoly" situation. But in recent years, actual bids have shattered the guidelines. In March 1967, when Samuel Newhouse paid $51 million to obtain control of the Cleveland Plain Dealer, he, in effect, was shelling out $120 per reader. That December, Lord Thomson paid $72 million for the dozen Brush-Moore dailies—almost 200 times their combined circulation. Just last September, the Times-Mirror made the Thomson deal look like small potatoes. As noted, it's paying $9.14 million for the Dallas Times Herald. Although other sizable assets are involved, that's 360 times the daily circulation of the newspaper.

RESTRUCTURED ITSELF

Other chains, expanding into the growth markets, have used an assortment of finan-

cial means. Richmond Newspapers went public in 1967, then restructured itself this year as the wholly-owned subsidiary of a new holding company called Media General. Shortly thereafter, Piedmont Publishing Co., publishers of the morning, evening and Sunday papers in Winston-Salem, N.C., joined the fold in return for Class A stock from Media General. Explains Gordon Gray, Piedmont's publisher: "I am mortal, and there are no members of my family interested in exercising the responsibilities I have assumed here."

Following the Piedmont merger, Media General—which through Richmond already had a controlling interest in Tribune Co. of Tampa, Fla.—upped its stake to 84% of the stock. Thanks to the merger of these papers, together with their radio and TV properties, Media General now emerges as a diversified communications group, with holding valued in the market at some $70 million.

Or take the new Communications Corp. In the greater Cleveland area, three newspaper publishers merged their 20 weekly newspapers into a complex. ComCorp reaches 300,000 homes in the outlying suburbs. (Suburbia has also attracted Time, Inc., which entered the newspaper business this year by snapping up a string of weeklies in the greater Chicago area.)

Still another example is Gannett. Last year it made its first move west of the Mississippi, snapping up three of the Sun Co. (San Bernardino, Calif.) papers which the Times-Mirror (its parent) was forced to dispose of by government antitrusters. This year, then, Gannett strengthened its foothold in Florida, by acquiring the Pensacola Newspapers, largest of the Perry Group.

STRATEGY FOR GROWTH

The trend to public ownership is changing not only in the structure of this venerable newspaper industry but also its way of doing business. Confronted with the need to disclose—and earn—a maximum return, management has had to concentrate harder on money-making. Ironically, then, they will pay what seems a highly inflated price for a family-run newspaper, on the assumption that improved methods will boost the latter's earnings enough to make the deal, eventually, a bargain. One way to boost earnings, obviously, is by expanding into areas where no competitive papers exist—yet where population is growing. Such happy opportunities seem to abound, and bigger chains are making the most of it. The "monopoly" paper in a suburb, accordingly, is particularly attractive. Since 1950, according to an ANPA study, circulation of suburban (and other community papers)—published for five to 50 miles from a city center—has risen 52% in 20 out of the 21 major U.S. metropolitan areas. What's more, daily newspapers in 97% of the nation's 1,500 cities today enjoy a "monopoly" status—excluding the competition from magazine and television, of course.

Nearly half of these in turn are owned by a group or national chains. Indeed, only three cities—New York, Washington and Boston—can claim more than two separate owners of daily newspapers.

Contrariwise, the dangers in starting a new paper today, in a market already competitive, are manifest. Take Cowles Communications. Ten years ago, it launched the San Juan Star as the only English-language paper in Puerto Rico—and made a success of it. By contrast, in 1966, it launched another in Suffolk County, N.Y., against the competition of highly successful Newsday (in adjacent Nassau County) as well as the Long Island Press, a Newhouse paper in Queens. After three years, and heavy losses, it gave up the ghost.

One publisher making a specialty of finding non-competitive growth areas is Gannett. All but two of its 34 papers—the Hartford Times and Binghamton (N.Y.) Evening Press—operate in noncompetitive communities. Retail sales in eight of its prime markets have increased by 59% over the last eight years. In 1968, as noted, Gannett went west to buy the Sun papers of San Bernardino, published in a "monopoly" area, where population growth is projected over 50% in the next seven years.

More recently, Gannett's purchase of the Perry papers in Pensacola added markets expecting to grow by 40% over the same period. Meanwhile, in 1966 the firm had started Today, the only newspaper serving the Cape Kennedy area. Last year, Today went into the black—two years ahead of projections. While there's a likelihood that the Cape's growth rate will decline—as government spending is curtailed—commercial business already is picking up some of the slack. Three major industrial companies there expect employment needs to triple over the next five years. Near Today's main plant, moreover, Disney World is going up.

Another on the look-out for such properties is Times-Mirror. While its Los Angeles Times is substantially ahead of the rival Herald-Examiner in both ads and circulation, management anticipates a leveling of population growth in L.A. So it had been shopping around in neighboring Orange County, one of the fastest-growing areas in the whole country. The market region already served by the Times is enormous; to speed distribution last year, it built a satellite plant at Costa Mesa (40 miles from the Times city desk), enabling Orange County subscribers to receive virtually the full news-editorial coverage of the regular paper, plus local features and advertising. This venture, which management hoped to see in the black within two years, broke even within a couple of months.

Perhaps the classic example of the benefits enjoyed from a near-nonopoly position is the New York Times. With the folding of the Mirror and Herald-Tribune, followed by three afternoon papers, The Times is left as the only standard-sized general paper in town. Recently, a stockholder—apparently unappeased by a four-year earnings jump to $1.64 a share from 46 cents—asked the publisher why the Times couldn't strive to become more of a regional newspaper. (Mr. Sulzberger replied that the Times already had a substantial circulation in Boston.) Since it would take $50 million by some estimates to launch a competitive paper in New York City with any chance of success, the paper seems to be sitting pretty.

In short, the structure and psychology of the newspaper business has been changing in tune with the economic and sociological trends in America. And today the printed word is more powerful than ever.

LEADING PUBLICLY OWNED COMPANIES

	Revenues (in millions)		Net per share	
	1969	1968	1969	1968
9 mos. ended Sept. 30:				
Capital Cities	$62.4	$53.2	$1.19	$0.95
Cowles	124.6	121.4	[1,2] .06	[1,2] .24
Dow Jones	91.7	78.0	2.26	1.76
Knight	119.3	78.6	1.75	.79
Lee	23.8	20.2	1.09	.97
Media General	37.3	31.7	1.30	1.06
New York Times	173.3	157.0	1.18	1.07
Time Inc	437.3	405.3	[3] 1.31	[3] 2.40
Times Mirror	287.0	264.9	[4] 1.55	[4] 1.32
39 weeks ended Sept. 28:				
Gannett	107.5	89.4	.92	.81
6 mos. ended June 29:				
Boston Herald-Traveler	22.8	20.0	2.16	1.65
6 mos. ended March 31:				
Cincinnati Enquirer	([5])	21.8	1.35	1.14

[1] Before extraordinary items of 13 cents a share in 1969 and six cents in 1968.

[2] Deficit.

[3] Before special credit of 74 cents in 1969 and 70 cents in 1968.

[4] Based on income before special credit.

[5] Not reported.

[From the Nation magazine, June 30, 1969]

THE "FAILING" NEWSPAPER PROBE: THE PRESS DUMMIES UP

(By Arthur E. Rowse)

WASHINGTON.—The daily press, the business with the most privileges of any in this country, is about to get one more after nearly two years of Congressional hearings and lobbying notable for both their newsworthiness and scarcity of mention in the news media. The new privilege will be special immunity from antitrust prosecution for separately owned newspapers that have joint operating arrangements, a sort of halfway house between competition and monopoly of local papers. Such immunity would be granted by a bill entitled "The Newspaper Preservation Act," the successor to one called "The Failing Newspaper Act," which was talked to death in the previous Congress. The pressure that has pushed this little-known bill ahead of countless more important measures in the past few months is silent tribute to the power of big publishers to get almost anything they want from publicity-hungry politicians.

The ostensible purpose of the revived measure is laudable enough. It is to preserve "the historic independence of the newspaper press in all parts of the United States" by allowing two or more newspapers, one of which may be failing, to enter into joint operating agreements without risk of antitrust prosecution. Proponents of the bill contend that it would slow the relentless march of local press monopolies that now grip 97 per cent of all cities having daily papers. Opponents say that preserving morning and afternoon papers under the same roof can be worse than letting one die or be sold, because it is more difficult to establish and maintain competition against an all-day combination than against one paper.

But despite twenty-three days of hearings, the final one on June 13, and more than 2 million words of testimony and exhibits, solid evidence has been noticeably lacking on both sides. With one possible exception, none of the newspapers interested in the proposal has provided financial data to prove that any newspaper was failing before it entered a joint operating arrangement. And no formal study was undertaken or presented to prove or disprove the contention that news and editorial operations in such arrangements are in fact any better for the public than they would be under one ownership. The members and staff of the Senate Antitrust and Monopoly Subcommittee, which has conducted the hearings, have scrupulously avoided stumbling into the political thicket of news policies for fear of being accused of transgressing the First Amendment of the Constitution. News and editorial matters are inextricably intertwined with economic matters, but the questioning of witnesses has been aimed only at the latter.

The line-up of powers for and against the bill tells much of the story. Chief backers of the measure have been the American Newspaper Publishers Association and the big chains of Scripps-Howard, Hearst, Newhouse, Knight, Block and Cox, each of which has at least one paper involved in a joint operating agreement. Principal opponents have been the Justice Department, Federal Trade Commission and the National Newspaper Association, a group of weeklies and small dailies.

Joint operating agreements involve forty-eight newspapers in twenty-four cities with a total population of 14.5 million. They include Albuquerque, N. Mex.; Birmingham, Ala.; Bristol, Tenn.-Va.; Charleston, W. Va.; Columbus, Ohio; El Paso, Tex.; Evansville, Ind.; Fort Wayne, Ind.; Knoxville, Tenn.; Honolulu, Hawaii; Lincoln, Neb.; Lynchburg, Va.; Madison, Wis.; Miami, Fla.; Nashville, Tenn.; Oil City-Franklin, Pa.; St. Louis, Mo.; Salt Lake City, Utah; San Francisco, Calif.;

Spokane, Wash.; Shreveport, La.; Tucson, Ariz., and Tulsa, Okla. Some fourteen cities of the remaining thirty-eight with separate dailies are reported to be on the verge of such mergers.

Scripps-Howard, the third largest chain in total daily and Sunday circulation, has six papers involved in joint operations, and Hearst, the fourth largest, has two. In most cases, these papers have joint advertising, circulation, production and business departments plus a profit-sharing arrangement. In St. Louis, the joint agreement includes only printing and profits, a situation revealed first by a staff investigator at the final hearing last year. All the papers insist that their news and editorial departments are separate and vigorously competitive.

But few of the papers bothered to obtain approval of the Justice Department before entering into such arrangements. In fact, few details were publicly known about them until the Justice Department stepped into Tucson with an antitrust suit aimed to break up the agreement there between the *Citizen* and *Arizona Star*. The Tucson arrangement, third oldest of its type, dates back to 1940. In January 1965, William A. Small, Jr., owner of the *Citizen*, exercised an option to buy the *Star* in order to block its sale to the Brush-Moore chain. The Justice Department, which had sat by for almost three decades while the joint operating schemes spread from city to city, filed suit the same month to prevent Small from taking over both papers and force him to break up the joint operation of their advertising and circulation departments, as well as the pooling of profits.

Specifically, Small and the papers were charged with violating the Sherman Act by combining to restrain interstate trade and conspiring to monopolize interstate trade through the joint operating agreement. Small and his wholly owned Arden Corporation, which was set up for the purpose of buying the *Star*, were also charged with violating the Clayton Act, which forbids one corporation to acquire another when the effect would be "substantially to lessen competition." The suit did not state any objections to the combination of printing facilities, nor have Justice Department officials since then said anything to indicate that joint production agreements violate any antitrust laws.

But Small, feeling that he had been singled out unfairly for a test case, laid plans to fight the suit both in the courts and legislative halls of Congress. He lost the first round in U.S. District Court when Judge James A. Walsh found that the joint agreements violated the Sherman Act. The judge also found that the acquisition of the *Star* by Small violated the Clayton Act. He thereupon directed Small to divest himself of the *Star* within ninety days and modify the operating agreements "so as to eliminate price fixing, market allocations and profit pooling." Judge Walsh's decision was upheld on each point by the Supreme Court last March 10.

But the battle for special legislative immunity from such prosecution continues. If anything, the speed has picked up since the Supreme Court decision because of the deadline it imposed on Small. The court directed him to come up with a plan for divestiture of the *Star* and modification of the joint operating agreements by July 3. As a result, hearings that were originally planned for late summer or early fall by subcommittee chairman Philip A. Hart were moved up to this month and limited to only three days. At a recent closed session of the subcommittee, Hart was outmaneuvered by Sen. Everett Dirksen when the latter asked for a vote on the bill. Realizing that he did not have the votes to block subcommittee approval at that point, Hart asked for hearings of at least a few days. But the only effect of that postponement may be to delay progress of the bill by a few weeks. With more than thirty Senators already signed up as co-sponsors, the bill is expected to sail through that body in short order. The only possibility of trouble exists in the House where some 100 Congressmen have already indicated their support. The key man there, Chairman Emanuel Celler of the Judiciary Committee, has said he will not seek to delay or block progress of the bill. His antitrust subcommittee held a few perfunctory hearings last year, but may approve it this year without hearings.

From the beginning, this bill has had the support of key legislators. Arizona's venerable Carl Hayden, former president pro tempore of the Senate, introduced the original bill in March 1967, almost a full year before Judge Walsh's District Court decision. Hayden, whose state includes the Tucson papers, was joined by fourteen other Senators, most of whom also came from states with similar joint newspaper operations. The man who has spent more time on the legislation than any other Senator except Hart is Hiram L. Fong, the millionaire businessman from Hawaii where the two largest Honolulu papers have such an agreement. Fong has participated in nearly every hearing, arguing strongly for the bill. "We're trying to save a failing newspaper," he said at the recent hearings, "so we can have a diversity of opinion in the community."

But the most important reason for the improved prospects for the bill is the new role of Senator Dirksen of Illinois, where no newspapers would be directly affected by the measure. Only last fall, the oily voiced champion of special interests stood opposed to S. 1312, perhaps largely because of strong opposition voiced by publishers of two large and powerful suburban newspaper chains around Chicago. His vote in the subcommittee was enough to keep the bill bottled up with hearings until the last days of the session when the subcommittee finally approved it. By then, however, it was too late for it to get further.

Since the first of this year, however, Dirksen has been pushing the bill. And he has been questioning witnesses with a vigor he has rarely exerted in recent years. What happened during this time to change his mind? First, he was re-elected and apparently no longer needs the friendship of weekly publishers. Second, he has begun making more than $12,000 a year on a once-a-week syndicated column that now runs in about sixty papers, including many vitally interested in passage of the controversial bill. Dirksen not only has taken the leadership in the questioning of witnesses—staying through more hours of testimony than he had done in years—but he has also offered several amendments designed to make the legislation more palatable than it has been to date.

One of his amendments attempts to clarify what is meant by a "failing" newspaper that would qualify for antitrust immunity. The bill defines a failing paper as one that "appears unlikely to remain or become a financially sound publication." He would add: "or is in danger of probable failure." His wording, which he contended was "no broader nor vaguer" than the language of the antitrust laws, is designed to qualify the Tucson *Citizen*, among others, as a "failing" paper, despite Judge Walsh's finding that Small's father in the year before the agreement was "prepared to finance the losses . . . for some little time thereafter."

Dirksen's second amendment would act like a grandfather clause, validating any joint agreement in effect prior to enactment of the bill. It would also require advance approval by the Attorney General of any new agreement. This language, he explained, "is designed to offer a means of protection to the small suburban and weekly newspapers, and to newspaper employees and their unions, while preserving the separate editorial voices now flourishing in the twenty-two cities with joint operating arrangements."

Amended or not, the bill has been the subject of some of the most intensive lobbying ever seen on Capitol Hill. It is not often that newspaper editors and publishers travel to Washington to twist arms on any matter before Congress. In most cases, their editorial pages—and sometimes their news columns—are enough to get results. But newspaper executives and even some reporters have been reported actively lobbying for this bill.

Among the newspaper men who have been seen buttonholing key legislators on Capitol Hill and in other sections of Washington have been John Siegenthaler, editor and vice president of the *Nashville Tennessean;* George Chaplin, editor and vice president of the *Honolulu Advertiser;* Charles Thierot, editor and publisher of the *San Francisco Chronicle* and Joseph Ridder, publisher of the *San Jose Mercury*. In addition, Hearst and Scripps-Howard executives from around the country have written letters and otherwise approached legislators on behalf of the bill. These contacts, plus occasional editorial pleas, have had a powerful effect. Like members of a private club, editors of many papers have been rallying to the cause of a few, often regardless of whether they themselves may be affected. Not since the press crusades of earlier decades against the Child Labor Act, National Recovery Act (NRA), Social Security Act and other pieces of progressive legislation has so much journalistic pressure been applied on Congress. And rarely has such a blatant grab for special privilege by any group received so much attention on Capitol Hill—and so little attention in the nation's news media.

In plotting their campaign, newspaper executives apparently decided on two types of public deception to gain their ends. One has been to make the government's case against the Tucson papers appear to be an attack against joint printing facilities, despite the fact that neither the District Court nor the Supreme Court expressed any criticism of combined printing facilities. Successive antitrust chiefs in the Justice Department also have clearly indicated that such arrangements are within the law, since they do not involve price fixing, market allocation or profit pooling. The impression left by many news stories, editorials and letters from editors and publishers has been that the government seeks to eliminate any and all joint operating arrangements.

The other tactic has been to give the public as little information as possible about the whole issue, apparently for fear that public opinion might interfere with the course of the bill through Congress. In view of the sometimes scandalous and sensational information disclosed at the hearings, the printing of so little about them has required a conscious effort on numerous occasions. The result has been almost complete public ignorance of the controversy and of the enormous expense and energy going into it from journalistic and Congressional sources. The bill itself is still so vague that many politicians have been talked into endorsing it without understanding it. For such legislators, suddenly it's 1984 when success means failure, illegal actions are legal, the rich are the poor and news is not news.

Normally, the commercial aspects of a daily newspaper operation would not be considered a major public issue, but any time such a privileged institution as the press lobbies so intensely and so extensively for another privilege, it becomes a matter of public interest and concern.

For example, it is not news when the one institution that investigates all others is itself finally investigated by politicians who have more reason to fear the press than any-

one else? Is it not news when some of the most powerful publishers in the nation seek legislative immunity from the antitrust laws for commercial operations that are essentially no different than those of other businesses? And is it not news when all this is asked in the name of "preserving" editorial freedom?

To be sure, the hearings have received some coverage. The major wire services have occasionally sent routine reports about the testimony, particularly when there has been a local angle for a particular paper. But almost all the stories have been brief and superficial, with roundup and think pieces almost nonexistent. The only newspaper to provide regular and sizable accounts of the hearings and the lobbying has been *The Washington Post.*

For most of the nation, the coverage has been extremely sporadic and brief, if indeed some areas have received any reports at all. The area of Tucson, where the whole thing started, is a striking example. The city and its newspapers were mentioned frequently in the seven-volume, 3,461-page hearing record, and much of the testimony has had a direct bearing on the Tucson situation. Yet according to Tucson's Mayor James N. Corbett, there has been "not one word in the papers about this bill. The papers have not found these hearings newsworthy." He told Senate investigators recently that the publishers "don't want to let people know they are asking special relief from Congress." Before he left Tucson to testify against the bill, he said, he was interviewed by all the local news media there. But, according to him, "not one word appeared in the papers," though radio and television carried reports.

Corbett disputed Small's claim that there have been divergent editorial voices in Tucson. He said both papers had opposed nearly every phase of a drive to attract more industry to the area, had effectively killed an urban renewal project and had consistently seen their political candidates and points of view rejected by the voters in local elections. On the other hand, Small had testified earlier that his papers had won the Community Services Award of the Arizona Newspaper Association for ten out of thirteen years.

The most serious thing, said Corbett, is "the control of a man's mind." He said he less feared a single monopoly, for its bias is usually clear to all and there usually are checks and balances. But when one newspaper appears as two, "it strikes right at the heart of the basic rights of man." He said the two papers had a "stranglehold" on Tucson.

David J. Leonard, a Tucson attorney who testified the same day, called the city "the best model" of what would happen in other cities if the bill were passed. Leonard has filed a class action for several merchants and the city of Tucson, seeking damages for overcharges for advertising in the two papers during the joint operation. He said passage of the bill would eliminate grounds for damages and thus remove a vested right guaranteed by the Constitution. For this reason, he called the bill unconstitutional.

Accompanying Leonard was a department store owner, Louis Cohn, who said Tucson advertising rates were approximately twice those charged by monopoly papers in similar situations elsewhere in the country. His statement disputed an earlier statement by Small that Tucson's advertising rates were about average for U.S. dailies of similar size.

Leonard presented copies of one of the oddest documents ever seen in Washington. He referred to it as the "Pig Document" because of the cartoons with which the Tucson papers depict themselves as pigs. The exhibit which was entered into the subcommittee record, was a "Presentation" by the Arizona *Star* to the Internal Revenue Service in 1946 to prove that "excessive excess profits" earned by the papers during World War II were not taxable because they were "not purely" due to the war boom but to the "elimination of competition," the very thing that the papers denied having done in the government case against them.

One page of the "Presentation" depicts the *Star* and *Citizen* as two pigs in 1939 tugging vainly in opposite directions but unable to reach the troughs of "advertising" and "circulation." A second drawing immediately below depicts the war period of 1940 to 1945 when the joint operating agreement was in effect: the pigs are growing fat at the troughs.

Despite the bizarre nature of this document, revealed in public for the first time, it was not apparently mentioned in any wire service report of the hearing that day. *The Washington Post* was apparently the only paper in the country to run a photograph.

Almost as sensational testimony had occurred the previous day with almost the same lack of interest by the news media. It concerned a television cameraman who had been a victim of spying in circumstances that recalled the experience of Ralph Nader with General Motors. Albert Kihn told the subcommittee that he began to be trailed by two-way radio-equipped cars seven days after writing a letter to the Federal Communications Commission accusing his employer, Station KRON-TV, with managing the news to suit the coporate interests of its parent, the *San Francisco Chronicle.* Kihn, who said he was tricked into quitting his job, said other radio-equipped cars parked for long periods outside his home. And he said his friends and former wife were questioned by mysterious investigators seeking personal information. Kihn said the detectives had been hired by a law firm that does business with the *Chronicle,* a paper with a stake in the Newspaper Preservation Act.

Scripps-Howard's UPI wire service mentioned his damaging testimony, but buried it near the end of a long story, leading with far less sensational statements from Milwaukee's Mayor Henry W. Maier. However, the story omitted Maier's strong criticism of the Milwaukee *Journal* for alleged inadequacies in reporting local news.

Another witness that day, Bruce Brugman, publisher of the monthly *San Francisco Bay Guardian,* presented clippings of a story from his paper about the alleged spying. He said that only his paper and *Variety* had reported the news. He said he had personally handed the details to local managers of the two wire services and several radio stations, but that nobody used it or attempted to check it out. Both he and Kihn said after the hearing that they had told several radio and television stations in advance about their testimony, but none, including the *Chronicle,* even bothered to send a reporter or cameraman to the hearings. The *Chronicle* sent a lawyer to observe. Both Brugman and another witness, San Francisco lawyer Michael N. Khourie, testified that neither of the two major papers in that city had been reporting previous Senate sessions on the bill.

Brugman also told an incredible story about an alleged coin-minting operation in the *Chronicle* building two years ago, but never reported beyond the confines of his small periodical. According to the article presented by Brugman from his issue of August 10, 1967, *Chronicle* editor Scott Newhall developed a strange fascination that year for the tiny Caribbean island of Anguilla, 3,000 miles from San Francisco. At one point, said Brugman, Newhall had two copy boys spend a Sunday afternoon with a hydraulic press in the *Chronicle* building over-stamping Peruvian and Mexican silver coins with the words, "Anguilla Liberty Dollar." Brugman printed a photograph of the coin in his paper. The plan, according to Brugman's account, which was never refuted, was for Newhall, a coin collector, to mint 10,000 to help shore up Anguilla's sagging economy. The coins costing about $1 each were to be sold to private collectors for as much as $10, with all profits going to the island of Anguilla. This is another remarkable story that has been completely ignored by the nation's news media (though a bank took a full-page ad in *The New York Times* to promote the scheme).

The press has gained a reputation for prying secrets out of nearly every corner of life; and selling the news to all who are willing to pay for it. But, as the Senate hearings have shown once again, the watchdog that watches everyone else is reluctant to tell secrets about itself. Apparently not even the power of Congress can expose the full story or slow the quest for still more privileges for the press.

[From the New Republic, Jan. 17, 1970]

WHAT THE VICE PRESIDENT AND THE PRESS KEPT DARK—SPIRO AGNEW'S CANDLES

(By Morton Mintz)

There isn't much reason to doubt that Vice President Agnew has tried to intimidate the news media; and among newsmen there isn't much doubt that in many places, and in ways not always perceptible, he succeeded. What hasn't been sufficiently noticed, however, is that the media virtually ignored or blacked out significant and revealing aspects of the story.

Consider Agnew's speech in Montgomery. The Vice President anguished about "the trend toward monopolization of the great public information vehicles and the concentration of more and more power over public opinion in fewer and fewer hands." No one made much of the fact that Agnew had not a word to say about the very obvious examples of news media concentration surrounding him when he spoke. In Alabama the giant Newhouse Newspapers chain owns both dailies in Huntsville and Mobile, WAPI-TV-AM-FM in Birmingham and a CATV (community antenna television network) in Anniston. Newhouse and another giant chain, Scripps-Howard, share ownership of the daily papers in Birmingham. Close by, Newhouse owns the dailies in New Orleans and Pascagoula, Miss., and Scripps-Howard owns the papers and WMC-TV in Memphis. Along with the Hearst Corp., which according to reliable sources has enlisted cerain correspondents in a lobbying effort, the Newhouse and Scripps-Howard chains are highly active proponents of the proposed Newspaper Preservation Act. This bill, which would repeal a Supreme Court decision declaring a joint newspaper operating agreement in Tucson, Ariz., illegal, would legalize *per se* violations of the antitrust laws—especially profit-pooling and price-fixing. For years, such violations have been part and parcel of the joint operating agreements which unite separate ownerships, including Newhouse, Scripps-Howard and Hearst, in 22 cities.

But in Montgomery Mr. Agnew chose to savage two newspapers that happen to be among the extremely few to have the editorial courage to oppose the newspaper bill—*The New York Times* and *The Washington Post,* which are in two of the last three major cities to have three separately owned daily papers. To go to Montgomery (itself a monopoly newspaper town) to attack the *Times* and the Washington Post Co. was "like going to Cairo to attack Arthur Goldberg," Sen. Philip A. Hart (D, Mich.) remarked. Hart is the principal opponent of the bill in Congress. As chairman of the Senate antitrust subcommittee, he presided over two years of hearings on the measure.

Although it is noteworthy that Mr. Agnew did not mention the newspaper bill in his Montgomery speech, the almost universal failure of the print and broadcast news media to call attention to the omission is inexcus-

able. The Vice President, if he has a taste for irony, might point this out some time. After all, as he said in Montgomery, he is "opposed to censorship of television and the press in any form." And if he has a taste for candor he might also deal with the split over the bill in the Nixon Administration—another newsy but widely ignored aspect of the matter.

With Budget Bureau—meaning White House—clearance the Justice Department has testified strongly and even eloquently against the bill before the Senate and House antitrust subcommittees. In June, Richard W. McLaren, Assistant Attorney General for antitrust, told Hart's unit that the bill would free a publisher making an undocumented claim of financial distress "to agree with his competitor to eliminate all commercial competition and share with him the fruits of an absolute monopoly." *Absolute monopoly.* Strong words. Was Mr. Agnew listening?

Practices such as profit-pooling and price-fixing "are illegal in and of themselves," McLaren continued. By legalizing them "the bill would flout the basic principles of the free enterprise system," he warned. "If a company, including a newspaper, can be saved only by eliminating all competition between it and its competitors, *we doubt that any good case can be made for the preservation of so lifeless an enterprise.* In these circumstances we believe it would be better to permit its disappearance from the market, thus making room for its replacement by a more robust competitor." (Emphasis supplied.) In addition, McLaren cited "the lack of any indication that such extreme measures as price fixing or profit pooling are in fact necessary to permit the independent existence of today's newspapers."

With this total rejection of the rational for the bill—that the "extreme measures" are necessary in order to preserve the independent editorial voices of failing newspapers—McLaren turned to a fundamental issue of public policy. Saying that newspapers "serve a vital function in acting as a watchdog on government," he declared: "To perform this function effectively, newspapers must remain independent of government and deal with it at arm's length, affording government no immunity and seeking none from it. I do not personally believe that, in the long run, government promotes newspaper independence by granting newspapers special favors. To exempt newspapers from the most well-established of antitrust prohibitions . . . would without doubt invite pleas for similar special-interest treatment from others, such as book publishers, magazines, and the motion pitcure industry . . . Having sought such exemption itself, the newspaper industry will be in no position to deal with such efforts in an objective fashion, and thus to perform its basic public service function."

But McLaren was to be caught utterly by surprise—and embarassed and saddened—by a series of events that began on a September day when Richard Berlin, president of the Hearst Corp., went to the White House to see Mr. Nixon, possibly at something less than arm's length. A couple of days later, the Commerce Department gave a surprise endorsement to the bill at a hearing of the House antitrust subcommittee. In 47 years in Congress, Chairman Emanuel Celler (D, N.Y.) said, he never knew of a case in which anyone but the Justice Department could speak for the White House on an antitrust bill. The Commerce Department, like the Justice Department, had Budget Bureau clearance. But it turned out that the Budget Bureau in the Nixon Administration resembles George Orwell's *Animal Farm* in that some clearances are more equal than others. In this case, McLaren had to admit to Celler on Sept. 25, not Justice but Commerce spoke for the President, even though his close adviser, Attorney General John N. Mitchell, had backed the antitrust chief. Celler's on-the-spot characterization of the situation was illuminating: the Administration was trying to "light one candle for Christ and one for the Devil and take no chances."

Aides to Mr. Nixon and Mr. Agnew, responding to a query about the Vice President's position on the bill, said that "the Administration" supports it. Sen. Hart, suggesting that Mr. Agnew really ought to talk to Mr. Mitchell, said "the Administration" is "half-right." What it comes down to is that Mr. Agnew lit one candle for deconcentration and one for concentration. But by failing to point out the inconsistency the news media as well as Mr. Agnew took no chances.

Similar issues are raised by the bill sponsored by Sen. John O. Pastore (D, R.I.) and zealously sought by the very networks Mr. Agnew denounced in Des Moines and Montgomery, as well as by concentrated ownerships with both broadcast holdings and "failing" newspapers. The Pastore measure would protect and advance concentration by making it almost impossible for anyone—including aggrieved minorities and groups that would offer more programming in the public interest—to have a hearing to protest and compete against existing licenses at renewal time. The Vice President, in his speeches, did not take a position on the bill, although it cannot be reconciled with his complaint about "the growing monopolization of the voices of public opinion." The President, at his press conference on Dec. 8, was questioned by network reporters about the speeches (he endorsed Mr. Agnew's position on fair reporting and commentary without specifically reaching the concentration issues) but not about the Pastore bill. Of course, the President left no doubt that concentration does not really trouble him when—after getting clearance from the broadcast industry—he named Dean Burch chairman and Robert Wells, who came from an outfit with multiple newspaper and broadcasting interests, a member of the Federal Communications Commission. On Dec. 17, they both voted against sending questionnaires to six conglomerates about connections between their broadcasting and their other business activities.

Mr. Agnew did not protest the immense contribution to concentration that the Pastore bill, which has every chance of success, would make. The broadcasters failed to tell us about that, and the print media—with very few exceptions—failed to tell us, too. Some in the business chalk up such omissions to "news judgment."

[From the Guild Reporter, Jan. 23, 1970]

THE NEWSPAPER INDUSTRY: KILL THE OBITUARY! THE CORPSE IS VERY MUCH ALIVE

Lord Thomson of Fleet, who owns more newspapers than anyone else in the world, 173 in all, including 62 daily, weekly and Sunday papers in the U.S., recently was asked why he keeps buying them whenever and wherever he can.

"Obviously," he replied, "because there's money in them. I'd be a fool—wouldn't I?—if I bought them for any other reason."

He was reminded that nearly all the prophets of the electronic age, and especially his fellow Canadian, Marshall McLuhan, insist that radio, television, CATV, communications satellites, computers and other electronic marvels soon to come are making the printed word obsolete.

Thomson, who, at 75, sometimes forgets that he's now a peer of the realm and not just plain Roy Thomson, the son of a Toronto barber and a chambermaid, snapped: "McLuhan's craz—." Then he caught himself: "No, don't say that. Just say I disagree with him."

It may come as a surprise to many, but Lord Thomson unquestionably has the better of the argument.

Actually, since 1945, the newspaper industry has been remarkably stable. There were 1,749 dailies in the U.S. then, three less than there are today. Of course, they are not all the same dailies. Papers did fail, but for every one that failed another was born.

By and large, the newspapers that failed were either in communities too small to support them in this era of constantly rising costs or else in cities like New York, Boston, Detroit and San Francisco, where the middle class has been leaving for the suburbs. The people replacing them are, for the most part, the poor and even the indigent. These people, naturally, are not an ideal target for advertisers.

Meanwhile, however, suburbia has been flourishing. That is where the new papers are being started. And that's where the money is.

At the end of World War II, the population of Marin County, Calif., was 50,000. It's now more than 200,000. As a result, the circulation of the San Rafael Independent-Journal has risen from 6,000 to 45,000. Does Publisher Wishard A. Brown have problems? Certainly.

"A problem for us," he says, "is that we have too much circulation and our circulation is too effective. People respond to our advertising to such a degree that advertisers don't have to buy as much advertising."

The fact is that, on the whole, the newspaper industry has never been healthier, not even in the heyday of Joseph Pulitzer and William Randolph Hearst. Advertising revenues and circulation are increasing. Net income in recent years has represented a far greater return on revenues than those in other manufacturing industries.

Look at the statistics:

Since 1949, television advertising revenues have risen from a paltry 57.8 million dollars to 3.2 billion dollars last year. This is a sensational increase. Surely, TV must have cut into newspaper advertising revenues.

Look again: Newspaper advertising revenues have risen, too, from 1.9 billion dollars to 5.3 billion dollars, and this rise has almost exactly paralleled the rise in TV revenue. Newspaper advertising revenue today is almost as great as television, radio and magazine advertising revenues combined.

Meanwhile, circulation has been increasing, too, from 51 million in 1946 to 62.5 million last year. The population has expanded more rapidly, but this, as Jon G. Udell, director of the Bureau of Business Research and Service of the University of Wisconsin, pointed out in a recent study "does not provide a fair and meaningful comparison because babies and small children do not read newspapers."

The market for newspapers, says Udell, is concentrated almost entirely in the population between the ages of 21 and 65. And the rise in newspaper circulation has exceeded the growth in that segment of the population.

Most newspapers in the U.S. are privately owned; in fact, most newspaper publishers are the sons and even the grandsons of newspaper publishers. It's a family business. Since these publishers don't issue annual reports, it's almost impossible to figure out just how profitable are the newspapers they own. What is more, most publishers of privately owned newspapers habitually cry poverty. And, even when they admit to making profits, they grumble.

James S. Copley, who runs a chain of 14 dailies based in San Diego, Calif., recently was asked: "Can the publisher of a small-town newspaper make as high a return on his investment as he would, say, if he put his money into a savings and loan account?" S&Ls in California now pay 5.25 percent.

Copley replied: "That's going to vary from market to market, but generallly I'd say he could make more money elsewhere."

Robert Letts Jones, president of the Copley Newspapers, interjected: "To us, newspapering isn't just money." Copley resumed: "In some towns it would be impossible to

make as much from newspapering as from putting the money into an S&L, in Southern California especially."

Copley and Jones are typical of those publishers who run privately owned newspapers. They insist they're just getting along. And, typically, when asked for the kind of figures that every publicly owned corporation supplies as a matter of course, they refuse to give them.

Across the continent, in Allentown, Pa., Donald P. Miller, who, with his family, owns 90 percent of the company that publishes The Morning Call, the Evening Chronicle and the Sunday Call-Chronicle, burst out laughing.

"I don't even tell my stockholders the kind of figures you're asking for," he said. "I have 27 of them. All I ever tell 'em is that we did very good or that we didn't do quite as good as I'd hoped."

Characteristically, the publishers, who constantly talk about "the public's right to know," bar their own reporters from the annual conventions of the ANPA.

Despite this, there is ample evidence that newspapers, Copley's included, are a far better investment than an S&L account. One is the annual studies that Editor & Publisher, the weekly news magazine of the newspaper industry, makes of medium-sized dailies and of dailies with a circulation of 250,000 or more.

These studies are based on top-secret reports from the newspapers themselves. Examine the last statistical analysis of what E&P calls the "medium-city newspaper":

Operating expenses in 1968 amounted to 3.5 million dollars, $131,300 more than in 1967. Operating profit was 1.4 million dollars versus 1.2 million dollars, a very nice 28.6 percent. Profit after taxes was $660,900, an increase of 5.6 percent over the year before. In other words, E&P's medium-city newspaper netted close to 14 percent on revenues.

Since the publishers of privately owned newspapers are so passionately secretive, there's no way of knowing what the medium-city paper returned on stockholders' equity.

E&P's study of newspapers with a circulation of 250,000 or more is equally revealing. On the average last year, they had revenues of 16.5 million dollars. This study does not disclose what the operating profit was or what the newspapers paid in taxes, but it does reveal how much they made after taxes. It was 3.7 million dollars, 22.4 percent of revenues.

In contrast, according to a study made by the First National City Bank, the average net profit on revenues for all manufacturing industries last year was 5.8 percent. Even the drug industry netted only 9.5 percent on revenues.

Another indication of how profitable newspapers can become from the annual reports of those newspapers that are publicly owned. Lord Thomson's newspapers in the U.S. and Canada are run by a company in his empire called Thomson Newspapers Ltd. Last year, they had revenues of 92.9 million dollars. Operating profit was 28.7 million dollars, 31 percent. After depreciation, interest on long-term debt, income taxes and similar costs, Thomson Newspapers Ltd. netted 9.1 million dollars, 9.8 percent of revenues. It returned 16.9 percent on stockholders' equity.

No wonder Lord Thomson doesn't take Marshall McLuhan very seriously.

The Gannett newspaper chain has nothing to sob about, either. Gannett Co., Inc., owns newspapers in 25 cities and towns, mostly in New York State but also in Connecticut, Florida, Illinois and New Jersey.

Gannett went public in December 1968. Its first annual report shows that, in 1968, revenues from circulation amounted to 31 million dollars, up from 28.1 million dollars in 1967 and 20.6 million dollars in 1964. Advertising revenue was 84.2 million dollars, up from 74.5 million dollars in 1967 and 53.1 million dollars in 1964. Total revenues: 115.2 million dollars, an increase of 12 percent over 1967, 56 percent over 1964.

Perhaps the best indication of how profitable newspapers are is this: Try to buy one.

It's not completely impossible. Newspapers do change hands, but, considering the size of the industry, rarely.

In December 1968, Walter B. Kerr, formerly president of the Santa Fe New Mexican, published a study of just how many had changed hands in the preceding year. The grand total: 37 of the nation's 1,749 dailies. In the first ten months of 1968 only 18 changed hands. Of these 55 papers, eight had circulations of less than 5,000; 13 were in the 5,000-to-10,000 bracket; 17 in the 10,000-to-25,000 bracket, and 14 in the 25,000-to-50,000 bracket.

"Only three of the 243 papers in the U.S. with sales of more than 50,000 to more than 500,000 were sold in this two-year period," Kerr reported. This, he said, was not because of a lack of would-be buyers but "because . . . few of the medium-to-large enterprises are for sale."

George Romano and his partner, Vincent J. Manno, are two of the leading newspaper brokers in the U.S. Romano says: "We have a dozen buyers for every seller. We've gone as long as a year without closing a deal. No one has to put up a 'For Sale' sign. People will come knocking on his [the seller's] door anyway."

How does one evaluate the worth of a newspaper? Everyone agrees: There's absolutely no way of doing so.

One Eastern publisher, when asked how much he thought his paper was worth, answered: "How much do you think your wife is worth?"

Another Eastern publisher, who permits his executives to buy stock in the paper, which they must sell back to him when they leave, was asked how much he pays for it when he buys it back. He recited a formula complicated enough to make a nuclear physicist's mind reel. Just as the questioner had figured out that he pays roughly 25 times earnings, he added: "Of course, the stock is worth a helluva lot more. If I ever decided to sell, and I can't imagine why I would, I'd ask a helluva lot more."

Publishers usually are in a position to bid far more for a newspaper than nonpublishers. In part, this is because they know the business and can hope to make considerably more from the newspaper than someone who still has to learn it. The newspaper they seek, moreover, may fit in with the properties they already own. By purchasing it, they may be able to establish a monopoly of a circulation area.

Most important of all, buying other newspapers is a way for publishers to retain earnings without paying excess-profit taxes; the tax laws view it as a legitimate form of expansion, and therefore publishers can use retained earnings for this purpose.

Almost invariably, therefore, when a newspaper changes hands it goes to another publisher. That is why newspaper chains are growing. Almost half the newspapers in the U.S. are now owned by chains.

From the few hard-and-fast statistics that have become public, newspapers seem to sell usually for about twice revenues; that is, E&P's typical medium-city newspaper should be worth about 10 million dollars. However, there are papers that have gone for three and even four times revenues.

Publisher Wishard Brown of the San Rafael Independent-Journal says he knows of a paper roughly in the same class as his that sold four years ago for 12 million dollars. Brown's paper last year had revenues of 4.5 million dollars. Assuming that four years ago the paper he's talking about had revenues of 4 million dollars, this means it went for three times revenues. Brown says:

"The price some papers are going for, regardless of what price I put on mine, somebody would pay it."

There is a reason for these prices:

Monopoly is the key to profitability in the newspaper industry generally. The industry today is healthier than ever before precisely because the number of newspapers in the U.S. declined from 1920 through 1945. It left the industry what William Lobe, the maverick right-winger, who publishes the Manchester (N.H.) Union-Leader, calls "an unregulated public utility."

In most communities, one publisher owns all the dailies in the county. Elsewhere, one publisher may own the morning paper while another owns the evening paper, they compete but they do not compete head-on.

In many cases, these monopolies extend far beyond the cities where the newspapers are published. Gannett's monopoly extends for 100 miles in every direction from Cape Kennedy. Media General's Richmond, Va. newspapers blanket 40 counties. The Allentown (Pa.) Call-Chronicle Co.'s newspaper blanket nine counties. Loeb has the only Sunday paper in the whole state of New Hampshire.

Many newspaper publishers, though not all, hate that word, "monopoly." Says Don Miller [of the Call-Chronicle]: "What monopoly? Why, the Philadelphia Inquirer comes into my circulation area, and so does the New York Times. I have radio and television stations competing with me, and the weeklies are tough competition, too."

Such talk cannot be taken seriously. And the reason is the very same reason the newspaper industry has been able to prosper despite the miracles of the electronic age. They serve a purpose no other medium can.

In simple fact, the only real competition metropolitan newspapers have comes from suburban newspapers; the only real competitors small-city newspapers have are the surrounding weeklies. And both the metropolitan newspapers and the small-city newspapers have been meeting this challenge. They are buying suburban newspapers; they are publishing special editions that can compete with the weeklies both in specialized news and in advertising; they are publishing weekly inserts geared to a particular community as part of their regular editions.

Profitable as newspapers are today, the chances are they will be more profitable still in the years to come. For they are discovering the 20th Century. For one thing, they have learned that electronics can be added to printing to make the manufacture of newspapers more efficient and less expensive.

Along with the virtues of technological development the newspaper industry also has discovered the virtues of public ownership. Although most newspapers still are privately owned, an increasing number are going public.

One reason is the problem of inheritance taxes. Another, says Chairman Tennant Bryan of Media General, "is the fact that families have a tendency to proliferate. You take a newspaper owned by the same family for three generations. Just think of how many descendants there are. Ownership and control have become so fragmented that going public is a necessity."

A third reason is the expansion of the chains: This requires more money than many of them have; the stock market is the place to get it.

Media General's Alan Donnahoe believes that "public ownership eventually is going to give us more profitable newspapers because stockholders won't stand for the sloppiness and inefficiency of some publishers who are now answerable to nobody but themselves."

The newspaper industry does, of course, have problems. In the larger cities, the labor unions have been a perennial problem, for they have resisted technological change. The Antitrust Division of the Justice Department is a major problem, too, for it has become increasingly concerned about the lack of competition in the industry. It has won a

court decree against an agreement by the morning and evening newspapers in Tucson, Ariz., to operate jointly, sell advertising jointly and pool profits. This could destroy similar agreements in 22 other cites.

Problems? Every industry has problems. It can stand a few of them when it's as profitable as the newspaper industry.

But Barron's found that such recent acquisitions as Newhouse's purchase of the Cleveland Plain Dealer for 51 million dollars amounted to a purchase price of as much as $120 per reader. And when Lord Thompson paid 72 million dollars for a dozen Brush-Moore dailies he was paying almost 200 times their combined circulation, Barron's said.

But the Los Angeles Times Mirror Co.'s recent purchase of the Dallas Times Herald made these look like "small potatoes," Barron's adds. The Times Mirror paid out about 360 times the daily circulation of the Dallas paper.

One publisher told Forbes that he estimates his stock is worth 25 times earnings.

"Of course," he added, "the stock is really worth a helluva lot more. If I ever decided to sell, and I can't imagine why I would, I'd ask a helluva lot more."

Another publisher told Forbes, "The price some papers are going for, regardless of what price I put on mine, somebody would pay it."

"Currently," Barron's adds, "publishers are beating the bushes seeking independent owners who may want to sell."

More and more newspapers are switching from family or private ownership to public ownership—and the trend will continue. Forbes and Barron's agree.

This means, of course, that the public is getting a peek at newspaper profits, formerly hidden from view.

It also means that newspaper publishers are under more pressure to increase their profitability, whether by expanding or by operating more efficiently, the two magazines agree.

Barron's says that expansion-minded publishers "will pay what seems a highly inflated price for a family-run newspaper, on the assumption that improved methods will boost the latter's earnings enough to make the deal, eventually, a bargain."

Forbes quotes a Media General (formerly Richmond Newspapers) executive who believes that "public ownership eventually is going to give us more profitable newspapers because stockholders won't stand for the sloppiness and inefficiency of some publishers who are now answerable to nobody but themselves."

"Finally," Barron's reports, "publishers, long suspicious of outsiders, are discovering at last that the open disclosure of highly profitable returns—far from hurting their image—greatly enhances it as well as the equity behind it."

Every indication, then, is that the newspaper business is highly profitable. But, *why* it is so profitable goes beyond the rising circulation and ad-revenue figures, the two magazines agree.

"Monopoly is the key to profitability in the newspaper industry generally," writes Forbes.

"The industry today is healthier than ever before precisely because the number of newspapers in the U.S. declined from 1920 through 1945," it declares.

Dailies in 97 percent of the nation's 1,500 cities "enjoy a 'monopoly' status," Barron's says, adding that "the 'monopoly' paper in a suburb is particularly attractive."

"Perhaps the classic example of the benefits enjoyed from a near-monopoly position is the New York Times, now the only standard-sized general paper in town," Barron's says. When a stock-holder "unappeased by a four-year earnings jump to $1.64 a share from 46 cents" asked Publisher Arthur Ochs Sulzberger why the Times couldn't strive to become more of a regional newspaper. Sulzberger replied that the Times already has a substantial circulation in Boston.

A West Coast example of growth is the Los Angles Times, Barron's adds, citing the fact that a recent Orange County edition, "which management hoped to see in the black within two years, broke even within a couple of months."

The situation in Canada is also rosy, with an industry spokesman estimating that the next five years should be the most successful ever for newspaper advertising in Canada, according to Marketing. Steven Sohmer, vice president of the American Newspaper Publishers Association, said during a speaking tour in Canada that ad dollars lost to television in recent years were beginning to return to newspapers, Marketing reports.

Clyde McDonald, general manager of the Canadian Daily Newspaper Publishers Association, predicts an adlinage increase of nine percent, or 10 million lines this year, an increase he terms "fantastic." McDonald added that there has been a 10-percent rise in Canadian newspaper ad revenues, up seven million dollars.

The portrait painted by Barron's and Forbes depicts a thriving, growing industry that has achieved, as Barron's puts it, "Pi in the Sky."

BLUE CHIP INVESTMENT: NEWS STOCKS BULLISH

For the past two years, Forbes reports, Donald P. Miller of the Call-Chronicle Co., which is family-owned, has been investing his reserves in the stock of publicly owned newspapers. He says: "They're just as liquid as Treasuries and a good deal better."

His portfolio now includes the New York Times, the Gannett newspapers, Media General, Capitol Cities Broadcasting (which owns the Fairchild newspapers), Corinthian Broadcasting, the Times Mirror Co., the Knight newspapers, the Lee newspapers and Dow-Jones. It represents a total investment of $277,800.

"The other morning," Forbes writes, "sitting in his office in Allentown, Pa., Miller did some quick calculating on a machine behind his desk.

" 'Since we started buying these newspaper stocks,' he said, 'the market has gone down about 20 percent. Our newspaper stocks are now worth $302,600, which means they're up 8.9 percent.'

"Miller has been wise in his choice of newspaper stocks. Not all of them managed to rise in a declining market.

"On the other hand, Miller's basic point is right: Newspaper stocks generally have been going up despite the 11.5-percent decline of the market this year. Recent quotations showed the New York Times up 7 percent since Jan. 1; the Knight newspapers, 28 percent; the Times Mirror Co., 3 percent; Media General, 20 percent; Dow-Jones, 3 percent."

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass? On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. AIKEN (after having voted in the negative). Mr. President, on this vote I have a pair with the distinguished Senator from Arizona (Mr. GOLDWATER). If he were present and voting, he would vote "yea." If I were permitted to vote, I would vote "nay." Therefore, I withdraw my vote.

Mr. BYRD of West Virginia (after having voted in the negative). Mr. President, on this vote I have a pair with the distinguished Senator from Connecticut (Mr. DODD). If he were present and voting, he would vote "yea." If I were permitted to vote, I would vote "nay." Therefore, I withdraw my vote.

Mr. KENNEDY. I announce that the Senator from Connecticut (Mr. DODD), the Senator from Missouri (Mr. EAGLETON), the Senator from Alaska (Mr. GRAVEL), the Senator from Minnesota (Mr. MCCARTHY), the Senator from Wyoming (Mr. MCGEE), the Senator from Connecticut (Mr. RIBICOFF), the Senator from Maryland (Mr. TYDINGS), and the Senator from Texas (Mr. YARBOROUGH) are necessarily absent.

I further announce that the Senator from Montana (Mr. METCALF) is absent on official business.

I further announce that, if present and voting, the Senator from Missouri (Mr. EAGLETON), the Senator from Texas (Mr. YARBOROUGH), and the Senator from Connecticut (Mr. DODD) would each vote "yea."

I further announce that, if present and voting, the Senator from Alaska (Mr. GRAVEL), the Senator from Connecticut (Mr. RIBICOFF) would each vote "nay."

Mr. GRIFFIN. I announce that the Senator from Colorado (Mr. ALLOTT), the Senator from Kansas (Mr. DOLE), the Senator from Arizona (Mr. GOLDWATER), the Senator from Vermont (Mr. PROUTY), the Senator from Pennsylvania (Mr. SCHWEIKER), the Senator from Illinois (Mr. SMITH), and the Senator from Texas (Mr. TOWER) are necessarily absent.

The Senator from Maryland (Mr. MATHIAS), the Senator from Oregon (Mr. PACKWOOD) and the Senator from Ohio (Mr. SAXBE) are absent on official business.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

If present and voting, the Senator from Colorado (Mr. ALLOTT), the Senator from Kansas (Mr. DOLE), the Senator from South Dakota (Mr. MUNDT), the Senator from Illinois (Mr. SMITH), and the Senator from Texas (Mr. TOWER) would each vote "yea."

The pair of the Senator from Arizona (Mr. GOLDWATER) has been previously announced.

The result was announced—yeas 64, nays 13, as follows:

[No. 26 Leg.]

YEAS—64

Allen	Gore	Murphy
Anderson	Griffin	Pastore
Baker	Gurney	Pearson
Bayh	Hansen	Pell
Bellmon	Harris	Proxmire
Bennett	Hartke	Randolph
Bible	Hatfield	Russell
Boggs	Holland	Scott
Brooke	Hollings	Smith, Maine
Cannon	Hruska	Sparkman
Case	Hughes	Spong
Church	Inouye	Stennis
Cook	Jackson	Stevens
Cooper	Jordan, N.C.	Symington
Cranston	Jordan, Idaho	Talmadge
Curtis	Long	Thurmond
Dominick	Magnuson	Williams, N.J.
Eastland	Mansfield	Williams, Del.
Ellender	McClellan	Young, N. Dak.
Ervin	Miller	Young, Ohio
Fannin	Montoya	
Fong	Moss	

NAYS—13

Burdick	Javits	Muskie
Cotton	Kennedy	Nelson
Fulbright	McGovern	Percy
Goodell	McIntyre	
Hart	Mondale	

ANSWERED "PRESENT"—1

Byrd of Virginia.

PRESENT AND GIVING LIVE PAIRS, AS PREVIOUSLY RECORDED—2

Aiken, against.
Byrd of West Virginia, against.

NOT VOTING—20

Allott	McCarthy	Saxbe
Dodd	McGee	Schweiker
Dole	Metcalf	Smith, Ill.
Eagleton	Mundt	Tower
Goldwater	Packwood	Tydings
Gravel	Prouty	Yarborough
Mathias	Ribicoff	

So the bill (S. 1520) was passed, as follows:

S. 1520

An act to exempt from the antitrust laws certain combinations and arrangements necessary for the survival of failing newspapers

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. This Act may be cited as the "Newspaper Preservation Act".

DECLARATION OF POLICY

SEC. 2. In the public interest of maintaining the historic independence of the newspaper press in all parts of the United States, it is hereby declared to be the public policy of the United States to preserve the publication of newspapers in any city, community, or metropolitan area where a joint operating arrangement has been or may be entered into because of economic distress.

DEFINITIONS

SEC. 3. As used in this Act—

(1) The term "antitrust law" means the Federal Trade Commission Act and each statute defined by section 4 thereof (15 U.S.C. 44) as "Antitrust Acts" and all amendments to such Act and such statutes and any other Acts in pari materia.

(2) The term "joint newspaper operating arrangement" means any contract, agreement, joint venture (whether or not incorporated), or other arrangement entered into by two or more newspaper owners for the publication of two or more newspaper publications, pursuant to which joint or common production facilities are established or operated and joint or unified action is taken or agreed to be taken with respect to any one or more of the following: printing; time, method, and field of publication; allocation of production facilities; distribution; advertising solicitation; circulation solicitation; business department; establishment of advertising rates; establishment of circulation rates and revenue distribution.

(3) The term "newspaper owner" means any person who owns or controls directly, or indirectly through separate or subsidiary corporations, one or more newspaper publications.

(4) The term "newspaper publication" means a publication produced on newsprint paper which is published in one or more issues weekly, and in which a substantial portion of the content is devoted to the dissemination of news and editorial opinion.

(5) The term "failing newspaper" means a newspaper publication which, regardless of its ownership or affiliations, (i) is in probable danger of failure, or (ii) appears unlikely to remain or become a financially sound publication.

(6) The term "person" means any individual, and any partnership, corporation, association, or other legal entity existing under or authorized by the law of the United States, any State or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or any foreign country.

ANTITRUST EXEMPTION

"SEC. 4. (a) It shall not be unlawful under any antitrust laws for any person to perform, enforce, renew, or amend any joint newspaper operating arrangement entered into prior to the effective date of this Act, if at the time such arrangement was first entered into, not more than one of the newspaper publications involved in the performance of such arrangement was a publication other than a failing newspaper.

"(b) It shall be unlawful for any person to propose, enter into, perform, or enforce a joint operating arrangement, not already in effect, except with the prior written consent of the Attorney General of the United States. Prior to granting such approval, the Attorney General shall determine that not more than one of the newspaper publications involved in the performance of such an arrangement was a publication other than a failing newspaper: *Provided, however,* That any publication may at any time propose, enter into, perform, or enforce an agreement with any person if such agreement was not prohibited by law prior to the effective date of this Act.

(c) Nothing contained in this Act shall be construed to exempt from any antitrust law any predatory pricing, any predatory practice, or any other conduct in the otherwise lawful operations of a joint newspaper operating arrangement which would be unlawful under any antitrust law if engaged in by a single entity. Except as provided in this Act, no joint newspaper operating arrangement or any party thereto shall be exempt from any antitrust law.

PREVIOUS TRANSACTIONS

SEC. 5. (a) Any civil action in any district court of the United States in which a final judgment or decree has been entered, under which a joint newspaper operating agreement has been held to be unlawful under any antitrust laws shall be reopened and reconsidered upon application made to such court within ninety days after the date of enactment of this Act by any party to the contract, agreement, or arrangement by which such joint operating agreement was placed in effect, whether or not such party was a party to such action. Upon the filing of any such application with respect to any such action, any final judgment or decree theretofore entered therein shall be vacated by the court. The provisions of section 4 shall apply to the determination of such action by such court upon such reconsideration.

(b) The provisions of section 4 shall apply to the determination of any criminal action pending in any district court of the United States on the date of enactment of this Act in which it is alleged that any such joint operating agreement is unlawful under any antitrust law.

(c) The provisions of section 4 shall have no application to any action for the recovery of damages brought before November 4, 1969, by any party other than the United States upon a cause of action arising under any of the antitrust laws which accrued before such date: *Provided,* That this subsection (c) shall apply to the recovery of damages only by the named parties plaintiff who filed or intervened in such action by such date, and not by any other members of any class on behalf of whom such action purports to be filed who have not so filed or intervened by such date.

SEPARABILITY PROVISION

SEC. 6. If any provision of this Act is declared unconstitutional, or the applicability thereof to any person or circumstance is held invalid, the validity of the remainder of this Act, and the applicability of such provision to any other person or circumstance, shall not be affected thereby.

Mr. HRUSKA. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BENNETT. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MANSFIELD. Mr. President, issues dealing with the antitrust laws are as complex as any that are presented to the Senate. This bill is no exception. It was handled with great skill by the principal sponsor of the legislation, the distinguished Senator from Hawaii (Mr. INOUYE). To him and to the distinguished Senator from Michigan (Mr. HART), the chairman of the Subcommittee on Antitrust and Monopoly, who had raised significant reservations and objections to the import of this bill, the leadership wishes to express its sincere thanks as well as admiration. The arguments were presented succinctly and forcefully by them and the expeditious manner that has been set on this measure should set a fine example for the remainder of the session.

To them and the distinguished Senators from Nebraska (Mr. HRUSKA), from New Hampshire (Mr. MCINTYRE), from Hawaii (Mr. FONG), from Arizona (Mr. GOLDWATER and Mr. FANNIN), the leadership is indebted for assisting in the orderly disposition of the Senate's work.

THE 25TH ROLLCALL VOTE THIS SESSION

Mr. SCOTT. Mr. President, if I am correct, the vote on the passage of the bill is the 25th rollcall vote taken this session. I think it is interesting to note that in the first session of this Congress it was not until the 13th of May that the Senate reached its 25th rollcall vote. Therefore, this is indeed progress. It shows the beneficial results of the fact that we are reminded by others, and frequently remind ourselves, of the necessity of expediting the work of the Congress. I am delighted to be able to make this report.

The PRESIDING OFFICER. The Chair is delighted to be so notified.

Mr. MOSS. Mr. President, if I may observe, in view of the statement made by the minority leader, this is the second session of the 91st Congress, and I would think we would be starting to vote earlier this time than we did last year.

LEGISLATIVE PROGRAM

Mr. SCOTT. Mr. President, may I now inquire as to the order of business for the remainder of the day and for the immediate future?

Mr. MANSFIELD. Four bills will be taken up this afternoon. Three of them are noncontroversial. There will be some discussion on one of them. Then it is intended to lay before the Senate the mass transportation bill as the business on Monday.

I had thought that we would go into Saturday on the pending measure. Fortunately for all of us, this will not be necessary and, therefore, with no business before us, we will not meet tomorrow; it is not the intention of the joint leadership to hold sessions on Saturday just for the purpose of making an appearance here.

Mr. SCOTT. I thank the Senator.

PROJECTS FOR PAID ADVERTISING UNDER MARKETING ORDERS APPLICABLE TO TOMATOES

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 628, S .1862.

The PRESIDING OFFICER. The bill will be stated by title.

The ASSISTANT LEGISLATIVE CLERK. A bill (S. 1862) to amend section 8c(6) (I) of the Agricultural Marketing Agreement Act of 1937 to permit projects for paid advertising under marketing orders applicable to tomatoes.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Agriculture and Forestry, with an amendment, in line 4, after the word "Act", strike out "of 1933"; so as to make the bill read:

S. 1862

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 8c(6) (I) of the Agricultural Adjustment Act as amended, and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended, is amended by striking out "or avocados" in the proviso, and inserting in lieu thereof "avocados, or tomatoes".

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

The title was amended so as to read: "An act to amend section 8c(6) (I) of the Agricultural Adjustment Act to permit projects for paid advertising under marketing orders applicable to tomatoes."

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report, No. 91-637, explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

This bill is identical to title II of S. 1811, which passed the Senate on October 16, 1969, and again on October 20, 1969. S. 1181 contained rather detailed legislation with respect to potatoes in addition to this simple provision for tomatoes. On November 12, the House rejected H.R. 2777, which was a companion bill to the potato provisions of S. 1181; and there is therefore now no possibility of enactment of S. 1181. There has at no time been any opposition to the provisions of S. 1181 dealing with tomatoes.

This bill amends section 8c(6) (I) of the Agricultural Adjustment Act (7 U.S.C. 608c (6) (I)) to add tomatoes to the list of commodities for which paid advertising can be provided in promotional programs under marketing orders. Promotional programs under marketing orders are already authorized, but paid advertising can be included in them only if specifically authorized. At present paid advertising is authorized for cherries, carrots, citrus fruits, onions, Tokay grapes, fresh pears, dates, plums, nectarines, celery, sweet corn, limes, olives, pecans, and avocados. The bill would add tomatoes to this list.

Before an order can be issued, hearings are held, and all its terms must be approved by the Secretary of Agriculture and by two-thirds in volume or number of the producers.

The committee amendments are of a purely technical nature. They amend the bill and its title so that they correctly cite the act being amended by the bill.

INTERNATIONAL ANIMAL QUARANTINE STATION

Mr. MANSFIELD. Mr. President I ask unanimous consent that the Senate turn to the consideration of Calendar No. 629, S. 2306.

The PRESIDING OFFICER. The bill will be stated by title.

The ASSISTANT LEGISLATIVE CLERK. A bill (S. 2306) to provide for the establishment of an international quarantine station and to permit the entry therein of animals from any country and the subsequent movement of such animals into other parts of the United States for purposes of improving livestock breeds, and for other purposes.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Agriculture and Forestry, with an amendment, on page 2, line 6, after the word "station," insert: "The Secretary of Agriculture, on behalf of the United States, is authorized to accept any gift or donation of money, personal property, buildings, improvements, and other facilities for the purpose of conducting the functions authorized under this Act.";

So as to make the bill read:

S. 2306

"*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Secretary of Agriculture is authorized, in his discretion, to establish and maintain an international animal quarantine station within the territory of the United States. The quarantine station shall be located on an island selected by the Secretary of Agriculture where, in his judgment, maximum animal disease and pest security measures can be maintained. The Secretary of Agriculture is authorized to acquire land or any interest therein, by purchase, donation, exchange, or otherwise and construct or lease buildings, improvements, and other facilities as may be necessary for the establishment and maintenance of such quarantine station. The Secretary of Agriculture, on behalf of the United States, is authorized to accept any gift or donation of money, personal property, buildings, improvements, and other facilities for the purpose of conducting the functions authorized under this Act. Notwithstanding the provisions of any other law to prevent the introduction or dissemination of livestock or poultry disease or pests, animals may be brought into the quarantine station from any country, including, but not limited to, those countries in which the Secretary of Agriculture determines that rinderpest or foot-and-mouth disease exists, and subsequently moved into other parts of the United States, in accordance with such conditions as the Secretary of Agriculture shall determine are adequate in order to prevent the introduction into and the dissemination within the United States of livestock or poultry diseases or pests. The Secretary of Agriculture is authorized to cooperate in such manner as he deems appropriate, with other North American countries or with breeders' organizations or similar organizations or with individuals within the United States regarding importation of animals into and through the quarantine station and to charge and collect reasonable fees for use of the facilities of such station from importers. Such fees shall be deposited into the Treasury of the United States to the credit of the appropriation charged with the operating expenses of the quarantine station. The Secretary is authorized to issue such regulations as he deems necessary to carry out the provisions of this Act.

SEC. 2. The provisions and penalties of section 545 of title 18, United States Code, shall apply to the bringing of animals to the quarantine station or the subsequent movement of animals to other parts of the United States contrary to the conditions prescribed by the Secretary in regulations issued hereunder.

SEC. 3. There are hereby authorized to be appropriated such sums as are necessary to carry out the provisions of this Act.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

Mr. HRUSKA. Mr. President, on June 5, 1969, I introduced S. 2306, entitled "The International Livestock Quarantine Station Act." This bill provided that the Department of Agriculture would have the authority to establish and operate an international animal quarantine station on an island within the territory of the United States, and, in connection with the station, permit the movement of animals into the United States which would otherwise be prohibited or restricted under the animal quarantine laws.

Many livestock producers and organizations have written to me expressing their strong support for S. 2306 and urging prompt action. The interest in this bill has continued to grow, as both consumers and producers have realized the benefits that can accrue.

I am deeply gratified for the action of the Senate Agriculture and Forestry Committee in recommending this bill favorably. The hearings held by Senator JORDAN's Subcommittee on Agricultural Research and General Legislation were conducted by the chairman with keen interest and very complete examination of the witnesses. Senator JORDAN, and other subcommittee members, displayed their great knowledge of the livestock industry and its needs during those hearings. They covered fully the many aspects of this proposed animal quarantine station, and the hearings were an education for all of us who attended.

Mr. President, our livestock industry is the most efficient and productive in the world. It provides our growing population with an ample supply of wholesome and inexpensive meat and dairy products and provides numerous allied industries with the basic supplies for their ultimate products. Cash receipts from sale of meat animals in 1968 were $15.4 billion, and cash receipts from dairy products amounted to $6 billion, a total of over $21.4 billion. There can be little doubt then that the livestock industry is a major industry, and vital to our economic as well as our physical health.

A great challenge faced by the livestock industry today is increasing its productivity at the necessary rate to keep up with the demand, and to do so on increasingly smaller amounts of land. One answer to this challenge is to improve the quality of the animals so that fewer animals can provide a greater quantity of produce.

Seeking to improve the quality of American animals, the livestock producers have become vitally concerned with "hybrid vigor," which is the description used for new germ plasm for breeding stock.

Hybrid vigor from new blood lines can have many salutary advantages for the stock. It can improve productivity, that is, the ratio of the number of births to the number of head of breeding stock each year. New germ plasm can greatly improve the survival rate, and reduce the loss of young stock.

This crossbreeding can promote more rapid growth of livestock, and enable producers to market them sooner. And finally, crossbreeding can improve the feed conversion rate of the livestock, which means that they can put on weight more quickly with less amounts of feed. For these reasons, American livestock industries are vitally interested in obtaining new bloodlines.

The demand for new bloodlines has directed attention to importing into the United States new and different breeds from foreign countries. Importing new bloodlines is not an easy task, however, because of the threat of foot-and-mouth disease.

Only a few countries are free of foot-and-mouth disease—all of North America and Central America, most of the countries or islands of the Caribbean area, Australia, New Zealand, Japan, Republic of Ireland, North Ireland, Channel Islands, and Norway. All other European countries, Soviet Union, South America, and African nations and the Middle and Far Eastern countries are recurring sources of the disease for the rest of the world.

After the United States eradicated the remnants of the disease in 1929, and poignantly aware of the resulting losses, the Congress in 1930 passed a law to regulate strictly importation of products which are potential carriers of foot-and-mouth disease. This legislation was embodied in the Tariff Act of 1930. It prohibits importation of susceptible animals and fresh-chilled or frozen meat from countries where foot-and-mouth disease exists. Since its enactment, this disease has been effectively precluded from this country. But, the restrictions under this law, while once wholly effective, do not provide the same protection today, in an era of increasing efforts of other nations to export their livestock to the United States to meet the breeding needs of our livestock industry.

The Canadian Government has created two animal quarantine control centers to receive livestock from countries with foot-and-mouth disease, and has established a strict procedure of maximum quarantine for those animals.

U.S. livestock interests have then been able to purchase livestock from the Canadians after the animals were declared safe by the Canadian Government. This total procedure, however, has become very costly. It has been estimated to cost at least $5,000 per head for this quarantine procedure.

The Canadian Government deserves to be commended for its high standards. Requiring very thorough, extensive, and elaborate controls on livestock coming from countries such as France, and then requiring a period of quarantine, the Canadian Government has been able to exclude completely any animal carrying foot-and-mouth disease from ever being released from the center.

The United States has relied upon the Canadians to apply the strictest controls and the Canadians have not breached that trust. This relationship has been, and I am confident would continue to be, satisfactory and wholly responsible. The Canadians, of course, have reason enough to be dissatisfied with this as a permanent arrangement because many of the livestock head are ultimately sold in the United States even though Canada supervises the importation and quarantine. In fact, the Canadians have recently imposed a 3-year embargo on export of livestock which has come into Canada through the quarantine procedure.

Also the United States has reason to be concerned if only for the fact that although many of the livestock head do come to the United States, the United States does not control the apparatus of importation and quarantine. The Department of Agriculture has considered this lack of control as a minimal risk. In order to eliminate any doubts, however, it has ordered American veterinarians to meet any livestock shipments from foreign lands to Canada which would ultimately be bought by U.S. interests. This, the Department concedes, is expensive and a burdensome procedure. These are not the major reasons, though, for seeking United States control of importation and quarantine.

Other countries, such as Japan and Ireland, which are considered free of the disease under the tariff law of 1930, are now also seeking to establish quarantine centers for foreign livestock from afflicted countries for ultimate export to the United States.

The Department of Agriculture cannot continue to send American veterinarians to these nations to accompany those foreign livestock through all of the elaborate quarantine controls. Nor can the Department afford to take the risk of not sending those veterinarians.

The more disease-free countries that seek to do this, the greater the expense to the American Government, and the more difficult it is to supervise the increasingly diverse systems of quarantine control of other countries.

So, a U.S. livestock quarantine station will bring two major benefits to the livestock industry. It will permit more breeding livestock to be brought into the United States in volume considered necessary and it can be brought in more economically. Of equal importance, the U.S. Government will be in control of the facilities and we can assure that the veterinary tests and quarantine facilities will always be of the highest quality.

The potential benefits in our livestock production, especially of meat-producing animals, from the importation and organized use of exotic breeds of animals can be expected to promote more rapid growth of livestock and enable producers to market them sooner. Some of the improvements in livestock production would include beef cattle—an increase in weaning weight, postweaning growth rates and muscularity, a decrease in carcass waste fat, and improved fertility and calf survival; dairy cattle—an increase in milk production, fertility, and calf survival; sheep—an increase in lambing rate, lamb growth rate and muscularity and a decrease in carcass waste fat; and swine—an increase in prolificacy and muscularity, and improved efficiency of gain.

The Agricultural Research Service of the Department of Agriculture has carefully studied this matter and has determined that an international livestock quarantine station is feasible and desirable.

Among the reasons cited by the ARS to explain why an international livestock quarantine station is needed are the following:

First. Livestock products, particularly beef, are in high demand by consumers.

Second. Consumer desires in meat and milk are changing. There is interest in less fat but high content of other desirable nutrients.

Third. Producers are under stress from high production costs and they need to find ways to reduce costs and to increase efficiency and returns.

Fourth. The nature of production makes it difficult for producers to adjust quickly and to respond to consumer desires by patterning products to meet those consumer desires.

Fifth. Opportunities to adjust production practices, types of animals, and product characteristics are limited and require time.

Sixth. One important course of action is to breed and develop animals which are more productive and which can efficiently produce more desirable products.

Seventh. The genetic base of some classes of livestock now available in the United States is narrow. It is based on only a few of the many breeds of the world. In some cases our present breeds are based on a relatively few animals introduced from northern Europe 60 to 80 years ago.

Eighth. Science has demonstrated high potential of cross-breeding to increase reproduction, vigor, growth, and efficiency in production. In some cases it can also bring about, more rapidly than any other breeding procedure, changes in the character and composition of the product.

Ninth. Science has further shown that the wider the genetic diversity of the parent stock used in crossing the greater the benefits from hybrid vigor and the greater the possibility for changing production and product characteristics.

Tenth. Exotic germ plasm of plants from all over the world introduced in the United States has been a most important factor in bringing about the phenomenal new varieties of high-yielding crops of

numerous kinds that are in every day use on farms and ranches.

Eleventh. Observations and preliminary investigations suggest that potential benefits are probable in livestock, especially the meat-producing species, in the order of magnitude observed with crops through the importation and organized use of exotic breeds of animals.

Twelfth. The use of certain exotic breeds likely can bring about desirable changes much faster than the same changes could be achieved within present U.S. breeds through long years of selection.

Thirteenth. The United States needs to provide a safe, orderly way to make the world's livestock population available for use in improving its livestock and livestock products.

Mr. President, the report of the Department of Agriculture, which recommended enactment of the bill, estimates that $2.5 million would be required for construction of the facilities and $1.3 million would be required annually for operating and maintaining the facility. After the first year, however, it is expected that expenses for operating the quarantine station would be financed largely by the collection of user fees from importers.

These costs are very reasonable when compared to the possible benefits. On the basis of available information, the Agricultural Research Service has estimated that by the year 1980 and thereafter annual benefits to the livestock producers and the public could amount to in excess of $1 billion.

Mr. President, the Agriculture Committee added a committee amendment to S. 2306 which would authorize the Secretary to accept gifts for the purpose of carrying out the purpose of the act. The Department recommended this amendment, and the committee found it reasonable and proper. I have no objection, either.

Mr. President, in an age when population growth of our Nation and of the world requires a constantly increasing demand on protein sources for healthy people, and when America is so blessed with a livestock industry capable of meeting the needs of our people with the greatest source of high protein meats and dairy products, which are a luxury and unattainable commodity in many lands, we must provide that industry with the necessary new bloodlines to improve its livestock, but, on the other hand, we cannot, and we must not expose this great industry to, and must protect it from all risks of this smallest of virus which could cause the greatest of tragedies.

A quarantine center owned and operated by the United States for all livestock imports from diseased areas of the world would be an ideal solution.

I ask unanimous consent to have a statement by the Senator from Kansas (Mr. DOLE) printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT BY SENATOR DOLE

Mr. President, my home state of Kansas is well known for its production of wheat. Through recent years Kansas has also become a leader in the cattle industry. Increasing numbers of beef cattle are being bred, fed and processed in Kansas to the point that Kansas State University recently disclosed facts that the cattle and beef industry in Kansas is the number one contributing element in the Kansas economy—nearly $1.2 billion in 1968.

With the growth of industry in our state, we have become aware of the importance of constantly improving its quality and efficiency. There is a considerable potential for improvement of cattle and other livestock through the introduction of new genetic configurations and blood lines into the strains common to the U.S. Throughout the world varieties of livestock and other domesticated animals exist which possess characteristics of heartiness, fertility and slaughterweights unknown to animals bred in the United States.

Although these foreign strains may hold great potential for the improvement of American livestock, a serious and, therefore, almost insurmountable barrier has existed to their introduction into this country. Because of the grave and justified concern for the control and elimination of animal diseases, especially foot and mouth disease and rinderpest, U.S. laws regulating the importation of breeding animals have effectively barred all imports of breeding stock.

Recognizing both the desirability of improving U.S. stock and the necessity for insuring continued freedom from disease, S. 2306 embodies a highly desirable approach to the importation of foreign breeding stock. By establishing an island quarantine station where animals bound for the United States may be thoroughly examined and observed, this bill will enable our country to take advantage of the breeding advances made in other parts of the world while maintaining the same strict safeguards against disease that have been the hallmark of our national livestock production.

Mr. President, I urge my colleagues to act favorably in behalf of S. 2306.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 91-638), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

This bill provides for the establishment of an international quarantine station, and the movement through it into the United States of animals which might otherwise be excluded by the animal quarantine laws. Such movement could be made only under conditions adequate to prevent the introduction of disease into the United States, and the Department of Agriculture advises that it regards such prevention as its prime responsibility. The bill would make it possible to bring in breeding stock to improve the U.S. livestock industry.

The station would be located on an island within U.S. territory. The Secretary would be authorized to acquire land by purchase, donation, or otherwise, to construct necessary improvements, and to charge user fees.

The committee amendment, which was recommended by the Department of Agriculture, would authorize the Secretary to accept gifts for the purpose of carrying out the act.

The committee's Subcommittee on Agricultural Research and General Legislation conducted hearings on the bill on December 8, 1969. All witnesses supported the bill.

The report of the Department of Agriculture, which recommends enactment of the bill, estimates that $2.5 million would be required for construction of the facilities and $1.3 million would be required annually for operating and maintenance costs. The latter amount would largely be recovered through user fees from importers.

The prime consideration in operation of the station should be prevention of the entry of livestock and poultry diseases. To this end—

1. The Department should make full use of current knowledge of foot-and-mouth disease, derived from both research and experience, and apply without deviation all necessary requirements to prevent introduction of these diseases into any part of North America.

2. Access to the quarantine facility should be restricted to surface carriers. Shipment of animals by air inevitably creates problems of availability of alternate landing sites, none of which would be equipped to provide the necessary safeguards against disease transmission.

3. No animals should be brought to the quarantine facility until all necessary buildings, equipment, and staff are available.

4. Provision should be made for the immediate destruction and disposal of all susceptible animals exposed to any outbreak of foot-and-mouth disease or rinderpest that may occur at the quarantine station.

5. Adequate measures should be provided to protect against the introduction of other important communicable diseases including, but not limited to, tuberculosis, brucellosis, scabies, trichomoniasis, vibriosis, anaplasmosis, and piroplasmosis.

The PRESIDING OFFICER. The bill is open to further amendment.

If there be no further amendment to be proposed, the question is on engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

MESSAGE FROM THE HOUSE—ENROLLED JOINT RESOLUTION SIGNED

A message from the House of Representatives, by Mr. Bartlett, one of its reading clerks, announced that the Speaker had affixed his signature to the joint resolution (S.J. Res. 131) to welcome to the United States Olympic delegations authorized by the International Olympic Committee, and it was signed by the Acting President pro tempore.

ENROLLED JOINT RESOLUTION PRESENTED

The Secretary of the Senate reported that on today, January 30, 1970, he presented to the President of the United States the enrolled joint resolution (S.J. Res. 131) to welcome to the United States Olympic delegations authorized by the International Olympic Committee.

FEDERAL NATIONAL MORTGAGE ASSOCIATION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate turn to the consideration of Calendar No. 634, S. 3207.

The PRESIDING OFFICER. The bill will be stated by title.

The ASSISTANT LEGISLATIVE CLERK. A bill (S. 3207) relating to the liabilities of Federal National Mortgage Association to the United States.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the bill was

considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

S. 3207

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That—

(a) In accordance with the provisions of section 303(a) of the National Housing Act concerning payment of a prescribed part of the general surplus and reserves of the corporation, the Federal National Mortgage Association shall pay to the Secretary of the Treasury $52,386,117.

(b) In accordance with the provisions of section 309(c) of the National Housing Act as it existed prior to September 1, 1968, the Federal National Mortgage Association shall pay to the Secretary of the Treasury the remaining income tax equivalent of $16,-479,604, plus interest on $2,977,442 at the rate of 6 per centum from September 16, 1967, until the date of payment, on $13,442,424 at the rate of 6 per centum from September 16, 1968, until the date of payment, and on $59,738 at 6 per centum from November 16, 1968, until the date of payment.

(c) The receipt by the Secretary of the Treasury of the amounts required to be paid by subsections (a) and (b) of this section shall constitute a full and final settlement of all matters affected by such subsections. The United States shall be made a party defendant in any case against any person who is, has been, or may be a director, officer, employee, or agent of the Federal National Mortgage Association because of any action taken pursuant to subsection (a) or (b) of this section, and any judgment awarded the Federal National Mortgage Association shall be paid in the same manner as a judgment against the United States.

SEC. 2. Section 302(a) of the National Housing Act, as amended, is further amended by adding at the end thereof the following new paragraph:

"(3) The partition transaction effected pursuant to the foregoing paragraph constitutes a reorganization within the meaning of section 368(a)(1)(E) of the Internal Revenue Code of 1954; and for the purposes of such Code, no gain or loss is recognized by the previously existing body corporate by reason of the partition, and the basis and holding period of the assets of the corporation immediately following such partition are the same as the basis and holding period of such assets immediately prior to such partition."

SEC. 3. Section 810(a) of the Housing and Urban Development Act of 1968 is amended by adding at the end thereof the following sentence: "For the purposes of the Internal Revenue Code of 1954, no gain or loss is recognized by the holders of such stock on such change, and the basis and holding period of such stock in the hands of the stockholders immediately after such change are the same as the basis and holding period of such stock in their hands immediately prior to such change."

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 91–644), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE OF BILL

The purpose of this bill is to clarify the payment of certain accounts owed by the Federal National Mortgage Association to the Secretary of the Treasury in connection with the reorganization of the FNMA.

BACKGROUND OF BILL

The preferred stock of Federal National Mortgage Association, all of which was held by the Secretary of the Treasury was retired on September 30, 1968. At that time FNMA was required by section 303(a) to "pay to the Secretary of the Treasury for covering into miscellaneous receipts an amount equal to that part of the general surplus and reserves of the corporation (other than reserves established to provide for any depreciation in value of its assets, including mortgages) which shall be deemed to have been earned through the use of the capital represented by the shares held by the Secretary from time to time." That part of the general surplus and reserves of the Corporation deemed to have been earned through the use of preferred stock and carried on the books of the Corporation as representing the earnings attributable to the portion of the capital supplied by the United States, approximated $52 million. At the time payment of this amount was due to be paid to the United States, FNMA asserted a claim against it based upon a contention by its counsel that it should establish a reserve for depreciation in the value of its mortgages which would wipe out its entire surplus and leave nothing to be paid to the United States. Pending resolution of the issue the $52 million was placed in a special status account in the Treasury, subject to withdrawal upon the joint order of the Secretary of the Treasury and the Corporation.

Subsequently, on December 12, 1968, after the preferred stock had been retired and after FNMA ceased to be a Government corporation, its Board of Directors attempted retroactively to transfer all its surplus to an account called surplus reserves. The resolution stated that instead of the Board endeavoring to resolve legal questions or ambiguities, it would be more appropriate that such legal questions or ambiguities be resolved either by clarification from the Congress or by authoritative interpretation from the courts.

Shortly before its becoming a private corporation, FNMA had changed its accounting procedures in such a way as to reduce its surplus and the tax equivalent payments made to the Treasury by approximately $16 million. This change in accounting procedures was disallowed by the Treasury Department so that the total indebtedness of FNMA to the Treasury now exceeds $68 million.

After several consultations between Counsel for the Treasury and Counsel for the Corporation, it was concluded by the Treasury that there is no alternative but to bring suit against the Corporation to recover the amounts due. Before suit could be brought, however, the President of the Corporation indicated a willingness on the part of the Corporation to pay the full amount due but, because of an alleged concern over possible potential liabilities of officers and directors of the Corporation, the President of the Corporation requested that Treasury Department sponsor legislation. The Treasury Department agreed to this approach but made clear that if legislation is not enacted it sees no alternative but to pursue the matter in the courts.

DISCRIMINATORY STATE TAXATION OF INTERSTATE CARRIERS

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate turn to the consideration of Calendar No. 623, S. 2289.

The PRESIDING OFFICER. The bill will be stated by title.

The ASSISTANT LEGISLATIVE CLERK. A bill (S. 2289) to amend the Interstate Commerce Act, as amended, in order to make unlawful, as unreasonable and unjust discrimination against and an undue burden upon interstate commerce, certain property tax assessments of common and contract carrier property, and for other purposes.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Commerce with amendments on page 2, line 14, after the word "the", where it appears the second time, strike out "taxing district" and insert "assessment jurisdiction in which is included such taxing district and"; after line 22, insert:

"(2) As used in this section:

"(a) The term 'transportation property' means transportation property as defined in the regulations of the Interstate Commerce Commission.

"(b) The term 'assessment jurisdiction' means a geographical area, such as a State or a county, city, or township within a State, which is a unit for purposes of determining assessed value of property for ad valorem taxation."

On page 3, at the beginning of line 7, strike out "(2)" and insert "(3)"; in line 18, after the word "paragraph", strike out "(2)"; in line 19, after the word "enactment", strike out the period and quotation marks, insert a colon and "*And provided further,* That no relief shall be granted hereunder unless the assessment percentage applied to carrier transportation property exceeds by at least 5 per centum the assessment percentage applied to all other property in the assessment jurisdiction."

So as to make the bill read:

S. 2289

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Interstate Commerce Act, as amended, is amended by inserting after section 25 thereof a new section 25a as follows:

"SEC. 25a. (1) Notwithstanding the provisions of section 202(b), the following action by any State, or subdivision or agency thereof, whether such action be taken pursuant to a constitutional provision; statute, or administrative order or practice, or otherwise, is hereby declared to constitute an unreasonable and unjust discrimination against and an undue burden upon interstate commerce and is hereby forbidden and declared to be unlawful; (a) the assessment (but only to the extent of any portion based on excessive value as hereinafter described), for purposes of a property tax levied by any taxing district, of transportation property owned or used by any common or contract carrier subject to economic regulation pursuant to the provisions of the Interstate Commerce Act at a value which bears a higher ratio to the true market value of such transportation property than the assessed value of all other property in the assessment jurisdiction in which is included such taxing district and subject to a property tax levy bears to the true market value of all such other property; (b) the collection of any tax on the portion of said assessment so declared to be unlawful or (c) the collection of any ad valorem property tax on such transportation property at a tax rate higher than tax rates applicable to any other property in the taxing district.

"(2) As used in this section:

"(a) The term 'transportation property' means transportation property as defined in the regulations of the Interstate Commerce Commission.

"(b) The term 'assessment jurisdiction' means a geographical area, such as a State or a county, city or township within a State,

which is a unit for purposes of determining assessed value of property for ad valorem taxation."

(3) Notwithstanding the provisions of section 1341, title 28, United States Code, or of the constitution or laws of any State, the district courts of the United States shall have jurisdiction, upon complaint and after hearing, to issue such writs of injunction or other proper process, mandatory or otherwise, as may be necessary to restrain any State, or subdivision or agency thereof, or any person from doing anything or performing any act declared by paragraph (1) hereof to be unlawful: *Provided, however,* That such jurisdiction shall not be exclusive of that which any Federal or State court may otherwise have: *And provided further,* That the provisions of this paragraph shall not become effective until three years after the date of enactment: *And provided further,* That no relief shall be granted hereunder unless the assessment percentage applied to carrier transportation property exceeds by at least 5 per centum the assessment percentage applied to all other property in the assessment jurisdiction."

Mr. MAGNUSON. Mr. President, while this is a somewhat complicated bill to read, it is not so complicated as might first appear. It is a bill which we in the Commerce Committee think is long overdue, and which has been the subject of consideration by the Congress and the States for many, many years. To facilitate understanding of this legislation. I think it is well at this time to put in the RECORD an excerpt of the report of the Commerce Committee appearing on page 15, enumerated "Conclusion." I ask unanimous consent to do so.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

CONCLUSION

The committee wishes to emphasize that this bill would in no way alter the freedom of a State to tax its taxpayers so long as interstate carriers are accorded equal tax treatment with other taxpayers. In the majority of States that now grant equal justice to all taxpayers, State property tax assessments, collections or rates would in no way be affected by passage of this bill. In the remaining States, 3 years would be provided for adjustment, and thereafter, no change would be required unless and until an affected carrier has proved his case in court that State discriminatory tax practices exist. Absent such proof in a court of law, this statute would have no effect whatsoever on any act of any State regarding any tax at any time.

Year after year the States have asked for postponement of action on legislation such as S. 2289 to put their house in order. The committee agrees with the views of the Department of Transportation that "it has been demonstrated in the several studies and hearings on this subject that discriminatory taxation of surtax carrier property is widespread whether under color of law or not. While the States, often on the basis of a decision from either their own courts or the Federal courts, have made some progress in the area of discriminatory assessments, backsliding is always present unless there is a positive national policy in the picture."

Mr. MAGNUSON. Mr. President, we had long hearings on this matter. The Senator from Indiana held hearings over 2 or 3 years on this subject. The States understand the problem. I think there is practically unanimous agreement on the bill with the exception of what I think will be a clarifying amendment, to be offered by the Senator from Wyoming.

Mr. HANSEN. Mr. President, I send to the desk an amendment to S. 2289, and ask that it be stated.

The PRESIDING OFFICER. The amendment of the Senator from Wyoming is not in order until the committee amendments are agreed to.

Mr. HARTKE. Mr. President, I ask unanimous consent that the committee amendments be considered en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered.

The committee amendments were considered and agreed to en bloc.

The PRESIDING OFFICER. The clerk will state the amendment of the Senator from Wyoming.

The assistant legislative clerk read as follows:

On page 3, line 6, insert the following:

"(c) The term 'all other property' means all property, real or personal, other than land used primarily for agricultural purposes or primarily for the purpose of growing timber."

Mr. HANSEN. Mr. President, the amendment I have sent to the desk has been examined by the distinguished Senator from Indiana (Mr. HARTKE) and by the distinguished chairman of our committee, and I think we are in accord that the amendment is acceptable. I ask my distinguished colleague if that is not correct.

Mr. HARTKE. Mr. President, the Senator from Wyoming is correct. We discussed this matter. This amendment is in the nature of a clarifying amendment. But I do think it adds materially to the bill. I am willing to accept the amendment.

Mr. HANSEN. Mr. President, the distinguished chairman of the Commerce Committee has pointed out the action taken by his committee in reporting out S. 2289. When hearings were held on this legislation I was privileged to be a member of the Senate Commerce Committee, and carefully followed those proceedings. As Chairman MAGNUSON has pointed out, S. 2289 faces up to a problem pointed out by the President's task force on rail transportation in its report in 1962.

In principle, Mr. President, I think all of us can agree the taxation by State and local government should be fair and equitable. At the same time, Mr. President, I think that we can also agree that in a vast majority of cases ad valorem taxes are fairly assessed by States and localities.

S. 2289, as amended by the committee, will encourage fair and equitable taxation in those few instances where localities either overtly or covertly tax transportation property at a higher rate or assessed valuation than for other segments of the community. However, Mr. President, I think we must be careful not to discourage those States who for good and proper reasons establish different classifications of property.

Mr. President, in a letter to the committee dated September 12, 1969, George Kinnear, the director of the department of revenue for the State of Washington, pointed out that one of the effects of the bill before us could create an entirely new set of inequities. He pointed out that S. 2289 offered carriers an opportunity to claim title to lower tax assessment by reasons of State or local policy decisions which are completely unrelated to any deliberate discrimination against common carriers.

The director of the Washington State Department of Revenue cites some examples of sound policies which would create this unfair and improper result:

First, a number of States have adopted so-called "Greenbelt" legislation which provides for lower taxation for certain types of property. The usual principle involved is that properties used for recreational or agricultural purposes shall be taxed on the basis of their "current use" instead of "highest and best use" which is otherwise generally applied. This type of legislation insofar as it concerns agricultural lands is enacted as a matter of public policy to retain the maximum acreage possible in farm lands even though industries or other developments in the area are forcing values and the resulting taxes up to higher levels—level which cannot be carried by farmers. Under the proposed bill a State would be unable to enact such a program for the benefit of all its people without permitting common carriers to receive the same low tax assessment. There is no reasonable public policy that could approve of this result.

In addition, Mr. President, the Department of Transportation, in a letter dated December 8, 1969, shares the view expressed by the director of the department of revenue for the State of Washington. Let me quote from that letter, Mr. President:

The Department of Transportation supports S. 2289 as amended by the Committee subject to a further amendment which would limit the standard of comparison for the assessment and taxation of carrier property to "industrial and commercial" property in the taxing district rather than to all other property generally as presently provided in S. 2289.

The further amendment would permit the States to continue a measure of classification, if State law so permits, for purposes of differentially assessing property unrelated to business or commercial use. While the measure of relief to the carriers would not be as great as that under S. 2289 as introduced, some limited form of classification would not necessarily be unduly discriminatory in nature. In the Department's view, this compromise approach is justified in the public interest.

Mr. President, I was fortunate to serve as Governor of Wyoming for 4 years, and we had a State board of equalization charged constitutionally with the responsibility of trying to equalize unjust taxes. I am sure you know, Mr. President, that all of us realize that it is no easy task, and it is something that has to be worked on continously. At the same time, Mr. President, I recognize that in the past there have been some instances where transportation property has been unfairly overtaxed.

Mr. President, to the extent that S. 2289 provides an impetus for fair taxation of transportation property, I support it. However, Mr. President, we have to ask ourselves a basic question of what would constitute fair taxation of transportation property. In other words, Mr. President, against what yardstick would we measure the tax assessed on transportation property? That yardstick should not include agricultural and timber property. In most States there is significant justification for assessing agricultural land, and tree farms, for example, at a lower evaluation and/or tax rate.

Mr. President, my amendment simply changes S. 2289 to reflect the reliance by

many States on different classifications as an inherent part of ad valorem taxation. Passage of S. 2289 with my amendment will assure just, fair, and equitable taxation for transportation properties, and I hope that Members of this body will adopt my amendment before it passes this bill.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Wyoming.

The amendment was agreed to.

Mr. HARTKE. Mr. President, the purpose of S. 2289 is to eliminate the long-standing burden on interstate commerce resulting from discriminatory State and local taxation of common and contract carrier transportation property. S. 2289 has both a substantive and a procedural aspect. Substantively, it would amend the Interstate Commerce Act to declare unlawful, as an unreasonable and unjust discrimination against and an undue burden upon interstate commerce, a State or local tax rate, assessment, or collection upon the transportation property of a common or contract carrier at a higher level than upon property in the same taxing district. Procedurally, it would provide a remedy in the Federal courts for common and contract carriers against the collection of the excessive portion of any tax based upon such unlawful assessment or rate.

To provide the States with adequate opportunity to eliminate discriminatory taxation policies, the provision allowing for suit in a Federal court does not become effective until 3 years after enactment of the bill. Certainly if the States are ready and willing to provide equal justice in taxation to all their taxpayers, another 3 years should be sufficient for them to adjust their practices and laws.

I want to emphasize that this bill would in no way alter the freedom of a State to tax its taxpayers so long as interstate carriers are accorded equal tax treatment with other taxpayers. In the majority of States that now grant equal tax justice to all taxpayers, State property tax assessments and rates would in no way be touched by this bill. In the remaining States, three years would be provided by this measure for the States to adjust their tax practices. Even at the end of 3 years, no change would be required of any State unless and until an affected carrier could prove in court that State discriminatory tax practices exist. Only when a carrier proves in court that a State is discriminatorily taxing carrier property would this statute have an effect on State tax practices.

In the last 9 years, the railroads alone have been assessed more than $900 million in discriminatory taxes. If discriminatory State and local taxation of transportation property of other carriers—oil pipelines, common and contract motor carriers, motor bus companies, water carriers, and freight forwarders—were added, the total sum for the last 9 years could be more than $1 billion.

Ultimately, the shipper and consumer pay the bill for discriminatory taxation of transportation. Not only are such taxes reflected in the transportation costs of goods purchased by the consumer, but also the consumers of States which do not discriminate are forced to share the cost of these burdensome tolls.

Basically, what the bill provides is that in the assessment of property in any State, there shall be equal treatment, and no discrimination with regard to the ownership of the property in question. This specifically deals with a long-standing inequity concerning railroad property, which has been the subject of special treatment by some States.

I think at this time there is no controversy, and I urge that the bill be passed.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD. I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

URBAN MASS TRANSPORTATION ASSISTANCE ACT OF 1969

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 626, S. 3154. I do this so that it will become the pending business.

The PRESIDING OFFICER. The bill will be stated by title.

The ASSISTANT LEGISLATIVE CLERK. Calendar No. 626, S. 3154, a bill to provide long-term financing for expanded urban public transportation programs, and for other purposes.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Montana?

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on Banking and Currency with an amendment to strike out all after the enacting clause and insert:

That the Congress finds that the rapid urbanization and the continued dispersal of population and activities within urban areas has made the ability of all citizens to move quickly and at a reasonable cost an urgent national problem; that new directions in the Federal assistance programs for urban mass transportation are imperative if efficient, safe, and convenient transportation compatible with soundly planned urban areas is to be achieved; and that success will require a Federal commitment for the expenditure of at least $10,000,000,000 over a twelve-year period to permit confident and continuing local planning, and greater flexibility in program administration. It is the purpose of this Act to create a partnership which permits the local community, through Federal financial assistance, to exercise the initiative necessary to satisfy its urban mass transportation requirements.

SEC. 2. Section 3 of the Urban Mass Transportation Act of 1964, as amended (49 U.S.C. 1602), is amended by—

(1) redesignating subsection (c) as subsection (e); and

(2) striking out subsections (a) and (b) and inserting in lieu thereof subsections (a), (b), (c), and (d), as follows:

"(a) The Secretary is authorized, in accordance with the provisions of this Act and on such terms and conditions as he may prescribe, to make grants or loans (directly, through the purchase of securities or equipment trust certificates, or otherwise) to assist States and local public bodies and agencies thereof in financing the acquisition, construction, reconstruction, and improvement of facilities and equipment for use, by operation or lease or otherwise, in mass transportation service in urban areas and in coordinating such service with highway and other transportation in such areas. Eligible facilities and equipment may include land (but not public highways), buses and other rolling stock, and other real and personal property needed for an efficient and coordinated mass transportation system. No grant or loan shall be provided under this section unless the Secretary determines that the applicant has or will have—

"(1) the legal, financial, and technical capacity to carry out the proposed project; and

"(2) satisfactory continuing control, through operation or lease or otherwise, over the use of the facilities and equipment.

The Secretary may make loans for real property acquisition pursuant to subsection (b) upon a determination, which shall be in lieu of the preceding determinations, that the real property is reasonably expected to be required in connection with a mass transportation system and that it will be used for that purpose within a reasonable period. No grant or loan funds shall be used for payment of ordinary governmental or nonproject operating expenses. An applicant for assistance under this section shall furnish a copy of its application to the Governor of each State affected concurrently with submission to the Secretary. If, within 30 days thereafter, the Governor submits comments to the Secretary, the Secretary must consider the comments before taking final action on the application.

"(b) The Secretary is authorized to make loans under this section to States or local public bodies and agencies thereof to finance the acquisition of real property and interests in real property for use as rights-of-way, station sites, and related purposes, on urban mass transportation systems, including the net cost of property management and relocation payments made pursuant to section 7. Each loan agreement under this subsection shall provide for actual construction of urban mass transportation facilities on acquired real property within a period not exceeding ten years following the fiscal year in which the agreement is made. Each agreement shall provide that in the event acquired real property or interests in real property are not to be used for the purposes for which acquired, an appraisal of current value will be made at the time of that determination, which shall not be later than ten years following the fiscal year in which the agreement is made. Two-thirds of the increase in value, if any, over the original cost of the real property shall be paid to the Secretary for credit to miscellaneous receipts of the Treasury. Repayment of amounts loaned shall be credited to miscellaneous receipts of the Treasury. A loan made under this subsection shall be repayable within ten years from the date of the loan agreement or on the date a grant agreement for actual construction of facilities on the acquired real property is made, whichever date is earlier. An applicant for assistance under this subsection shall furnish a copy of its application to the comprehensive planning agency of the community affected concurrently with submission to the Secretary. If within thirty days thereafter the comprehensive planning agency of the community affected submits comments to the Secretary, the Secretary

must consider the comments before taking final action on the application.

"(c) No loan shall be made under this section for any project for which a grant is made under this section, except—

"(1) loans may be made for projects as to which grants are made for relocation payments; and

"(2) project grants may be made even though the real property involved in the project has been or will be acquired as a result of a loan under subsection (b). Interest on loans made under this section shall be at a rate not less than (i) a rate determined by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the average maturities of such loans adjusted to the nearest one-eighth of 1 per centum plus (ii) an allowance adequate in the judgment of the Secretary of Transportation to cover administrative costs and probable losses under the program. No loans shall be made, including renewals or extensions thereof, and no securities or obligations shall be purchased which have maturity dates in excess of forty years.

"(d) Any State or local public body or agency thereof which makes applications for a grant or loan under this Act to finance the acquisition, construction, reconstruction, or improvement of facilities or equipment which will substantially affect a community or its mass transportation service shall certify to the Secretary that it has held public hearings, or has afforded the opportunity for such hearings, has considered the economic and social effects of the project for which application for financial assistance is made and its impact on the environment, and has found that the project is consistent with any plans for the comprehensive development of the urban area. If hearings have been held, a copy of the transcript of the hearings shall be submitted with the certification."

SEC. 3. (a) Subsection 4(a) of the Urban Mass Transportation Act of 1964, as amended (49 U.S.C. 1603(a)), is amended by—

(1) striking out "section 3" in the first sentence and inserting in lieu thereof "subsection (a) of section 3"; and

(2) striking out the next to the last sentence and inserting in lieu thereof the following: "Such remainder may be provided in whole or in part from other than public sources and any public or private transit system funds so provided shall be solely from undistributed cash surpluses, replacement or depreciation funds or reserves available in cash, or new capital."

(b) Section 4 of the Urban Mass Transportation Act of 1964, as amended (49 U.S.C. 1603), is amended by adding at the end thereof the following new subsections:

"(c) To finance the programs and activities, including administrative costs, under this Act, the Secretary is authorized to incur obligations in the form of grant agreements or otherwise in amounts aggregating not to exceed $3,100,000,000. This amount shall become available for obligation upon the effective date of this subsection and shall remain available until obligated. There are authorized to be appropriated for liquidation of the obligations incurred under this subsection not to exceed $80,000,000 prior to July 1, 1971, which amount may be increased to not to exceed an aggregate of $310,000,000 prior to July 1, 1972, not to exceed an aggregate of $710,000,000 prior to July 1, 1973, not to exceed an aggregate of $1,260,000,000 prior to July 1, 1974, not to exceed an aggregate of $1,860,000,000 prior to July 1, 1975, and not to exceed an aggregate of $3,100,000,000 thereafter. Sums, so appropriated shall remain available until expended.

"(d) The Secretary shall report annually to the Congress, after consultation with State and local public agencies, with respect to outstanding grants or other contractual agreements executed pursuant to subsection (c) of this section. To assure program continuity and orderly planning and project development, the Secretary shall submit to the Congress (1) authorization requests for fiscal years 1976 and 1977 not later than February 1, 1972, (2) authorization requests for fiscal years 1978 and 1979 not later than February 1, 1974, (3) authorization requests for fiscal years 1980 and 1981 not later than February 1, 1976, and (4) an authorization request for fiscal year 1982 not later than February 1, 1978. Such authorization requests shall be designed to meet the Federal commitment specified in the first section of the Urban Mass Transportation Assistance Act of 1969. Concurrently with these authorization requests, the Secretary shall also submit his recommendations for any necessary adjustments in the schedule for liquidation of obligations."

SEC. 4. Section 5 of the Urban Mass Transportation Act of 1964, as amended (49 U.S.C. 1604), is amended by striking out the next to the last sentence and inserting in lieu thereof the following sentence: "Such remainder may be provided in whole or in part from other than public sources and any public or private transit system funds so provided shall be solely from undistributed cash surpluses, replacement or depreciation funds or reserves available in cash, or new capital.

SEC. 5. Section 15 of the Urban Mass Transportation Act of 1964, as amended (49 U.S.C. 1611), is amended to read as follows:

"STATE LIMITATION

"SEC. 15. Grants made under section 3 (other than for relocation payments in accordance with section 7(b)) before July 1, 1970, for projects in any one State shall not exceed in the aggregate 12½ per centum of the aggregate amount of grant funds authorized to be appropriated pursuant to section 4(b); except that the Secretary may, without regard to such limitation, enter into contracts for grants under section 3 aggregating not to exceed $12,500,000 (subject to the total authorization provided in section 4(b)) with local public bodies and agencies in States where more than two-thirds of the maximum grants permitted in the respective State under this section has been obligated. Grants made on or after July 1, 1970, under section 3 for projects in any one State may not exceed in the aggregate 12½ per centum of the aggregate amount of funds authorized to be obligated under subsection 4(c), except that 15 per centum of the aggregate amount of grant funds authorized to be obligated under subsection 4(c) may be used by the Secretary, without regard to this limitation, for grants in States where more than two-thirds of the maximum amounts permitted under this section has been obligated. In computing State limitations under this section, grants for relocation payments shall be excluded.

SEC. 6. Nothing in this Act shall affect the authority of the Secretary of Housing and Urban Development to make grants, under the authority of sections 6(a), 9, and 11 of the Urban Mass Transportation Act of 1964, as amended (49 U.S.C. 1605(a), 1607a, and 1607c), and Reorganization Plan Numbered 2 of 1968, for projects or activities primarily concerned with the relationship of urban transportation systems to the comprehensively planned development of urban areas, or the role of transportation planning in overall urban planning, out of funds appropriated to him for that purpose.

SEC. 7. This Act may be cited as the "Urban Mass Transportation Assistance Act of 1969".

Mr. MANSFIELD. Mr. President, nothing will be done on this bill until Monday.

ORDER FOR ADJOURNMENT UNTIL 11:30 A.M. MONDAY, FEBRUARY 2, 1970

Mr. MANSFIELD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 11:30 Monday morning next.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECOGNITION OF SENATOR JAVITS

Mr. MANSFIELD. I ask unanimous consent that, immediately following the approval of the Journal on Monday next, the distinguished senior Senator from New York (Mr. JAVITS) be recognized for not to exceed 30 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF BUSINESS

Mr. MANSFIELD. Mr. President, I wish to commend the distinguished minority leader for bringing to the attention of the Senate the fact that the Senate, up to this time, has already had 25 rollcall votes, in comparison with a like number of votes not reached until mid-May——

Mr. SCOTT. May 13 of last year.

Mr. MANSFIELD. Of 1969. I think that speaks well for the activities of the Senate this year, the diligence with which it is attacking the various pieces of legislation, and the very good spirit of cooperation between the two parties in the presentation of that legislation.

Mr. SCOTT. I thank the distinguished majority leader.

The PRESIDING OFFICER. What is the will of the Senate?

Mr. BYRD of West Virginia. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. Without objection, it is so ordered.

The assistant legislative clerk proceeded to call the roll.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADJOURNMENT TO 11:30 A.M., MONDAY, FEBRUARY 2, 1970

Mr. BYRD of West Virginia. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in adjournment until 11:30 o'clock on Monday morning next.

The motion was agreed to; and (at 3 o'clock and 58 minutes p.m.) the Senate adjourned until Monday, February 2, 1970, at 11:30 a.m.

NOMINATIONS

Executive nominations received by the Senate January 30, 1970:

IN THE MARINE CORPS

Lt. Gen. Herman Nickerson, Jr., U.S. Marine Corps, for appointment to the grade of lieutenant general on the retired list in accordance with the provisions of title 10, U.S. Code, section 5233 effective from the date of his retirement.